

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRIMINAL ACTION NUMBER: 1:17CR51

JAMES L. LAURITA, JR.

Defendant.

TRIAL - DAY 2

Proceedings had in the Trial of the above styled action
on January 30, 2018 before The Honorable Irene M. Keeley,
Senior Judge, at Clarksburg, West Virginia.

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The defendant was present in person.

Proceedings recorded by stenomask, transcript produced by
official court reporter.

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P.O. BOX 969, CLARKSBURG, WEST VIRGINIA 26302-0969
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I N D E X**WITNESS****DIRECT****CROSS****REDIRECT****RECROSS**

(For the Government)

Kevin O'Dell	108	133	139	142
Brian Osborn	143	168	176	
Rick Usery	181	194	198	
Suzanne Crane	201	231		
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1 P R O C E E D I N G S

2 (01-30-2018, 8:35 o'clock a.m. Defendant present)

3 THE COURT: Good morning, Counsel and Mr. Laurita.
4 All jurors are now present and I--we owe them a note of
5 thanks because they came through some rough weather to get
6 here this morning. The jurors, I think, are ready to come
7 in. Are you all ready? Any preliminary issues?

8 MR. DOUGLAS: Your Honor, just at the end of the
9 day yesterday we discussed a limiting instruction--

10 THE COURT: Uh-huh (yes).

11 MR. DOUGLAS: Counsel have now discussed it this
12 morning and we're proposing that it only be included at the
13 end during the final instructions and that it's not
14 necessary during the case.

15 THE COURT: That's fine.

16 MR. CARR: Your Honor, the defense requested that.
17 We do not want a limiting instruction read during the trial
18 testimony and we'll discuss this I'm sure at the charge
19 conference but we believe that the generic instruction is
20 appropriate.

21 THE COURT: All right. Thank you very much. Now
22 if there are any potential witnesses in the courtroom who
23 need to be reminded about the sequestration order, I order
24 them to leave. Nobody? All right. Thank you.

25 We can bring the jury in. Thank you. Oh, by the way,

1 because this courtroom is so small and cluttered, I don't
2 ask you to stand. You can--I know that breaks your heart
3 and violates all the rules but really you can be seated when
4 the jury comes in. In the future I'm going to ask that you
5 all leave an aisle for the alternates so they don't have to
6 come through the middle there.

7 (Jury in 8:36 a.m.)

8 THE COURT: All right. Do we have all the jurors?
9 Please be seated.

10 JUROR: One's in the bathroom.

11 THE COURT: Oh, one's in the bathroom. Okay. In
12 the future don't come in until everybody is ready.

13 (Pause)

14 THE COURT: Good morning, Ladies and Gentlemen.
15 Welcome back and we salute you, the few, the hardy, the
16 brave who were out on the highway this morning. I really
17 appreciate your effort to be here on a timely basis. If you
18 think eight-thirty is too early because of the tenuous
19 nature of the weather, please let me know but I'll let you
20 know this afternoon what the reports for tomorrow are before
21 you leave so we can decide. Okay. All right. Thank you.

22 We're ready to resume with the second witness for the
23 Government.

24 MR. BERNARD: Thank you, Your Honor. The United
25 States would call Kevin O'Dell.

O'Dell - Direct

1 THE COURT: All right. Thank you, Mr. Bernard.

2 MR. BERNARD: You're welcome.

3 (Pause)

4 THE COURT: Mr. O'Dell, good morning. Would you
5 please approach the Clerk standing here in the front of the
6 courtroom. She will administer the oath to you before you
7 take the stand. She's in the gray suit. Thank you.

8 KEVIN O'DELL, GOVERNMENT'S WITNESS, SWORN

9 THE CLERK: Thank you. The witness is Kevin
10 O'Dell, O-'-D-e-l-l.

11 THE COURT: Mr. O'Dell, if you'll please speak in a
12 loud, clear voice into the microphone which you may move
13 down to accommodate where you are. Thank you.

14 THE WITNESS: Okay.

15 THE COURT: You may proceed.

16 MR. BERNARD: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. BERNARD:

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. Could you please tell us a little bit about yourself,
22 your name, where you live, if you're employed?

23 A. My name is Kevin O'Dell. I live in Rock Springs,
24 Wyoming. I am employed by GenWyoming.

25 Q. Okay. In what capacity?

O'Dell - Direct

1 A. I am the Manager of Human Resources and Safety there.

2 Q. At some point in the past were you employed at a company
3 in or about the Morgantown area known as Mepco?

4 A. Yes, sir.

5 Q. When did you start working for Mepco?

6 A. I think 2004.

7 Q. How is it that you came to work for Mepco? Who
8 recruited you and for what position?

9 A. Jim Laurita for the Human Resources Director position
10 there.

11 Q. And moving forward to in or about 2010, what was your
12 position in or about 2010?

13 A. Vice President of Human Resources and Safety.

14 Q. Now at some point while you were employed in that
15 capacity at Mepco did you and your wife become involved in
16 making campaign contributions, political contributions?

17 A. Yes, sir.

18 Q. How is it that you came to become involved in making
19 contributions?

20 A. Jim met with us and said that he was going to put
21 together a program where we would receive bonuses and be
22 asked to make contributions to various candidates.

23 Q. And when you say Jim, you mean the defendant?

24 A. Yes, sir.

25 Q. Is in the courtroom today?

O'Dell - Direct

1 A. Yes, sir.

2 Q. Okay. Seated at the table to my right?

3 A. Yes.

4 Q. All right. Now had you at any other time at Mepco been
5 given a bonus or been asked to contribute by Mr. Laurita,
6 the defendant, to political campaigns prior to that date?

7 A. We received a bonus each month based on productivity,
8 but prior to that I've never been asked to make
9 contributions.

10 Q. And that bonus, that's the so-called tonnage bonus?

11 A. Yes, sir.

12 Q. Did anybody ever direct you or suggest that you use your
13 tonnage bonus for--for anything?

14 A. No, sir.

15 Q. The tonnage bonus and let's say your salary--your salary
16 and the tonnage bonuses, would it be fair to say those
17 were--that was compensation that you chose to spend it on
18 whatever you or your wife chose to spend it on?

19 A. Yes, sir.

20 Q. What about this new bonus? Did you--were you free to
21 spend it on whatever you wanted to spend it on?

22 MR. CARR: Objection, Your Honor, calls for
23 speculation.

24 THE COURT: If it's rephrased to ask his
25 understanding, I'll allow it.

O'Dell - Direct

1 MR. BERNARD: Okay.

2 BY MR. BERNARD:

3 Q. Is it your understanding this new bonus--I'll call it
4 the second bonus because--

5 THE COURT: Without leading. You can just ask him
6 what his understanding was.

7 MR. BERNARD: Okay, Your Honor.

8 BY MR. BERNARD:

9 Q. What was your understanding as to this second bonus?

10 A. As I said, Jim, when he presented us with the bonus, he
11 said there would be some contribution suggestions made to us
12 for us to contribute.

13 Q. And what was your understanding as to those suggestions,
14 whether you could follow them or choose not to follow them?

15 A. I felt like that I should follow them.

16 Q. Why is that?

17 A. I felt like that was the intent of the program.

18 Q. Did you feel you could not follow them?

19 MR. CARR: Objection. Leading.

20 THE COURT: Sustained.

21 BY MR. BERNARD:

22 Q. Did you ever not follow them?

23 A. No, I always followed them.

24 Q. Why did you always follow them?

25 A. I felt like it was the right thing to do.

O'Dell - Direct

1 Q. The right thing, why?

2 A. For me. I felt like it was the right thing for me to
3 do.

4 Q. What would happen if you didn't?

5 A. I have no idea.

6 Q. What were you afraid would happen if--

7 A. I wasn't--

8 MR. CARR: Objection. Leading.

9 THE COURT: Sustained.

10 BY MR. BERNARD:

11 Q. Did you have any concern about what would happen if you
12 didn't?

13 A. I wasn't fearful. I just felt like it was the right
14 thing to do. Jim asked and I do what he said.

15 Q. Okay. Why is it that you would do what the defendant
16 asked you to do?

17 A. I respected him.

18 Q. Was there any other reason?

19 A. I would say that was pretty much the main reason.

20 Q. Well who hired you at Mepco?

21 A. Jim.

22 Q. Who was responsible for promoting you?

23 A. Jim.

24 Q. Who determined what your pay was going to be?

25 A. Jim.

O'Dell - Direct

1 Q. And who had the power to demote or terminate you?

2 A. Jim.

3 Q. Okay. Let's talk about the program a little bit. who
4 was responsible--to your knowledge who was responsible for
5 communicating the suggestions about the program to you?

6 A. Karen Hughes.

7 Q. Okay. And how did--how did that work? Specifically
8 during the program of political contributions at Mepco, how
9 did the whole process work?

10 A. As I remember Jim or Karen would provide a list of
11 candidates and suggested contributions for us to make.

12 Q. Okay. And in addition to--how were those usually
13 communicated and in what manner?

14 A. I don't remember. I know I sometimes received an e-mail
15 and I think sometimes we would receive like a written
16 statement or a--in an envelope, a statement of some sort.

17 Q. And did these communications, did they--well let me ask
18 you. Where did they usually occur, the communications that
19 you had with Ms. Hughes about the suggested contributions?

20 A. It would either be--as I said a communication, an e-mail
21 which I would see in my office or she may sometimes I think
22 leave an envelope with my name on it or we would maybe
23 discuss it in her office as I remember.

24 Q. Where were you physically located when these
25 conversations were occurring or communications?

O'Dell - Direct

1 A. In the office.

2 Q. Okay. And where's the office?

3 A. In Granville.

4 Q. Okay. In or about the Morgantown area?

5 A. Yes, sir.

6 Q. Do you recall--in addition to the candidates that you
7 were asked to contribute to, what other information was
8 contained upon these requests from Ms. Hughes?

9 A. It would be the candidates and the amount to each
10 candidate.

11 Q. Did it--was your spouse also requested to make
12 contributions under this program?

13 A. Yes, sir.

14 Q. So would that--would the communications you received
15 delineate between whom or who should be the one?

16 A. Yes.

17 Q. Do you recall the--any of the political campaigns to
18 which you contributed under this program?

19 A. Yes, sir.

20 Q. Why don't you tell us some of the--the names?

21 A. Manchin, Capito. I think Tomblin.

22 Q. Okay. I've got some exhibits that may refresh your
23 recollection as to some of those.

24 A. Okay.

25 Q. Now once you received that communication, the note on

O'Dell - Direct

1 how you were--or to whom you were supposed to make the
2 contribution and how much that was going to be, how is that
3 you got your contributions to where they had to be? What
4 were the mechanics with respect to that process?

5 A. I would typically write a check and my wife would write
6 a check or we would use a credit card voucher type form and
7 most of the time give that to Karen to--I would give it to
8 her and I think she took it the rest of the way.

9 Q. What was your understanding what would happen to the
10 checks after you provided them to Karen?

11 A. They were taken to the campaign someway.

12 Q. Did you ever yourself have to deliver them?

13 A. I don't remember doing it myself but it could have
14 happened. I just don't remember doing it though.

15 Q. Did you ever have any discussions, either early on in
16 the program or at any time while you were at Mepco, as to,
17 you know, why isn't Mepco just making these contributions?

18 A. I don't remember having that discussion.

19 Q. Now who was responsible--while this program was going
20 on, who was the one responsible for tracking your
21 contributions and reimbursements to you?

22 MR. CARR: Objection. Foundation. Calls for
23 speculation.

24 THE COURT: Again, what is his knowledge of.

25 MR. BERNARD: Yes.

O'Dell - Direct

1 THE COURT: That would be fine.

2 BY MR. BERNARD:

3 Q. Do you know who was responsible or do you have an
4 understanding who was responsible for tracking what
5 contributions you made and what reimbursements were made to
6 you?

7 A. Karen.

8 Q. How is it that this process would work? What would you
9 have to do in order to get advancements or reimbursements
10 for the contributions?

11 A. Karen would--kept track of the--we would receive a bonus
12 and Karen kept track of the requests for contributions and
13 when that number--when the amount was down then we would get
14 an additional contribution.

15 Q. And these amounts, these deposits you were getting,
16 other than political contributions were you doing any extra
17 work at Mepco for this bonus, the second bonus?

18 A. No, sir.

19 Q. At any point did the defendant come to you and say, hey,
20 I want to give you an additional fifty thousand dollars to
21 increase your compensation?

22 A. I don't remember that conversation.

23 Q. And the conversation you had with the defendant about
24 this additional money, the second bonus, all related to
25 political contributions?

O'Dell - Direct

1 A. Yes, sir.

2 Q. Did you yourself--you or your wife at the end of the day
3 make any money off of this so-called second bonus program?

4 A. No, sir.

5 MR. BERNARD: Your Honor, may I approach the
6 witness?

7 THE COURT: You may.

8 BY MR. BERNARD:

9 Q. Now, sir, I have put three exhibits in front of you so
10 it would save me from going back and forth and risking
11 tripping like I usually do. I would go over those
12 individually and ask you first of all if you could look at
13 what's been marked as Exhibit 12 and just generally flip
14 through that and let me know what that is, that compilation
15 of documents.

16 A. These are three--copies of three checks and one credit
17 card statement.

18 Q. Okay. And whose checks are they? Without going into
19 specificity, in general whose--which checking account are
20 they from?

21 A. Oh, my checking account, yes.

22 Q. You and your spouse's checking account?

23 A. Yes.

24 Q. What about the credit card records, whose are those?

25 A. It's my credit card.

O'Dell - Direct

1 Q. And do these records relate at least in part to
2 contributions you made during the Mepco political
3 contribution program?

4 A. Yes, sir.

5 Q. These contributions that we are talking about are the
6 same ones that were directed or suggested by the defendant
7 and paid for by the defendant, is that correct?

8 MR. CARR: Objection. Leading.

9 THE COURT: Sustained.

10 BY MR. BERNARD:

11 Q. Who paid for the checks and the credit card charges that
12 you have in front of you and again without getting into
13 specifics who paid for those?

14 A. I wrote the checks and it was on my credit card.

15 Q. And who ultimately paid for them, the contributions
16 contained therein?

17 MR. CARR: Objection. Calls for a legal
18 conclusion.

19 THE COURT: Overruled.

20 BY MR. BERNARD:

21 A. This--these payments would reconcile to the bonus that
22 we have been discussing.

23 Q. Okay. Again, who ultimately made the payments
24 reflected--

25 A. From Jim or from the company.

O'Dell - Direct

1 MR. BERNARD: Your Honor, I move to admit Exhibit
2 12.

3 THE COURT: Any objection to the admission of
4 Government Exhibit 12?

5 MR. CARR: No, Your Honor.

6 THE COURT: All right. United States Exhibit 12 is
7 admitted.

8 (Government Exhibit 12 admitted.)

9 BY MR. BERNARD:

10 Q. Let's talk about Exhibit 13. Do you have that in front
11 of you?

12 A. Yes, sir.

13 Q. All right. Again, if you could just flip through there
14 and tell me in general what those are, without getting into
15 the specifics at this point?

16 THE COURT: Which exhibit is this?

17 MR. BERNARD: I'm sorry, Your Honor. Exhibit 13.

18 THE COURT: Thank you.

19 MR. BERNARD: You're welcome.

20 BY MR. BERNARD:

21 A. These are copies of my bank account statement.

22 Q. Okay. And do those bank account statements relate in
23 any manner to deposits that you received from Mepco for
24 political contributions?

25 A. Yes, sir.

O'Dell - Direct

1 MR. BERNARD: Your Honor, at this time I would move
2 to admit Exhibit 13.

3 THE COURT: Is there any objection?

4 MR. CARR: No, Your Honor.

5 THE COURT: Government Exhibit 13 is admitted.

6 (Government Exhibit 13 admitted.)

7 BY MR. BERNARD:

8 Q. Let's back up and turn to Exhibit 12 and publishing the
9 first page of that exhibit please. Page one of Exhibit 12,
10 can you tell me what that item is?

11 A. That is a check from my account--from our joint account
12 written by my wife to McKinley for Congress.

13 Q. Okay. And the date of that check is March 10th, 2010.
14 It appears to be the first check in the series so is--

15 MR. CARR: Objection. Counsel is testifying.

16 THE COURT: Well, yes, that's true, Mr. Bernard, be
17 careful about that.

18 MR. BERNARD: I will.

19 THE COURT: I don't think it was for any ulterior
20 motive other than to move the case along but please be
21 careful.

22 MR. BERNARD: I will, Your Honor, and that's
23 exactly what it was for.

24 BY MR. BERNARD:

25 Q. But let me ask you, this check that was made out by your

O'Dell - Direct

1 spouse, was that pursuant to this program we've been talking
2 to?

3 A. Yes, sir.

4 Q. Did she make that contribution on her own initiative or
5 did she come up with the idea of doing a five hundred dollar
6 contribution to McKinley?

7 A. No, sir.

8 Q. Whose idea was that?

9 A. This was one of the contributions that we were suggested
10 to make.

11 Q. The defendant was the one that suggested you make it?

12 A. Yes, sir.

13 Q. Who paid for it ultimately?

14 A. The company.

15 Q. Go to page two please. Can you tell me what that is on
16 page two of Exhibit 12?

17 A. A copy of a check to Capito for Congress written by
18 myself.

19 Q. Okay. And who suggested or directed that you make this
20 contribution?

21 A. Jim.

22 Q. Who paid for it?

23 A. The company.

24 Q. Going to page three of the exhibit, why don't you tell
25 me what it is?

O'Dell - Direct

1 A. This is a copy of a check written by my wife to McKinley
2 for Congress.

3 Q. Okay. And who suggested or directed that your wife Dawn
4 make this contribution?

5 A. Jim.

6 Q. Who paid for it?

7 A. The company.

8 Q. Now going to the last page of that Exhibit 12, can you
9 tell me what this is? It's a little bit different.

10 A. A copy of a credit card statement.

11 Q. Okay. Stacy, could you please go to the bottom of that.
12 Thank you. There is an April 12, do you see that charge to
13 Manchin for five thousand dollars?

14 A. Yes, sir.

15 Q. And what is that?

16 A. That's a payment to the campaign.

17 Q. Okay. And who suggested or directed that you make that?

18 A. Jim.

19 Q. Who paid for that charge ultimately?

20 A. The company.

21 Q. And we're talking Mepco?

22 A. Yes, sir.

23 Q. When you say the company?

24 A. Yes, sir.

25 THE COURT: Mr. Bernard--

O'Dell - Direct

1 MR. BERNARD: Yes, Your Honor.

2 THE COURT: Just because of possible confusion for
3 the jury, I assume that that whole credit card statement
4 will be coming in because I don't believe the date tells us
5 the year.

6 MR. BERNARD: I can--

7 THE COURT: If you can elicit that information or
8 at least show the jury what--

9 MR. BERNARD: I sure can, Your Honor.

10 THE COURT: --what year you're talking about here.

11 MR. BERNARD: Sure, Your Honor.

12 BY MR. BERNARD:

13 Q. And if we go to--on that exhibit, if we go to the very
14 top of the exhibit. Can you tell from looking at that
15 statement what year that was?

16 A. It says 6/6/12.

17 Q. That's the--

18 A. Oh, I'm sorry, that's the due date. Yes, sir.

19 Q. And if you look--Stacy, can you blow that up right
20 there, and if you see the opening and closing date in the
21 account summary, can you see that?

22 A. Yes.

23 Q. Okay. And what is the date range for your statement at
24 that time?

25 A. 4/10/12 through 6/9/12.

O'Dell - Direct

1 Q. So the 4/12, what year was the April 12th Manchin
2 donation made according to your statement?

3 A. 2012.

4 MR. BERNARD: All right. Thank you. Thank you,
5 Your Honor.

6 BY MR. BERNARD:

7 Q. Now let's turn to Exhibit 13 and once again could you
8 briefly explain to the jury in general what these documents
9 are?

10 A. Copies of my bank account statement.

11 Q. And looking at page two, particularly on March 9th--let
12 me ask you this first of all. Looking at--you don't need to
13 bring this up, Stacy, but if you would turn to the--the
14 first page of your statement, can you tell, Exhibit 13, page
15 one and two, what year that statement was from?

16 A. The statement is dated February 26, 2010.

17 Q. All right. So let's turn to page 2 and a March 9th
18 payroll deposit, March 9th, 2010 payroll deposit of eleven
19 thousand four hundred and fifty-six dollars. Are you with
20 me?

21 A. Yes, sir.

22 Q. What does that deposit reflect?

23 A. That would be one of the bonus payments for the program
24 we're discussing.

25 Q. The bonus payment that related to and was for political

O'Dell - Direct

1 contributions?

2 A. Yes, sir.

3 Q. That money, as far as you know, the eleven thousand odd
4 dollars that was deposited, did you use any of that for
5 personal expenses?

6 A. No, sir.

7 Q. Pay any tuition with it?

8 A. No, sir.

9 Q. What did you pay with it?

10 A. I made contributions.

11 Q. Contributions suggested or directed by whom?

12 A. Jim.

13 Q. Let's go to page four of the statement and the previous
14 page, if you look at that and tell me what year this
15 statement is from and if you have the specific date?

16 A. This statement is for October 27, 2010.

17 Q. Let's turn over to page four and if you look with me at
18 an October 6 deposit of nine thousand nine hundred and
19 sixty-four dollars--are you with me?

20 A. Yes, sir.

21 Q. Could you tell me what that is?

22 A. This is another bonus payment for the contribution
23 program.

24 Q. Did you use any of that for personal expenses, tuition
25 or otherwise?

O'Dell - Direct

1 A. No, sir.

2 Q. What did you use it for?

3 A. Political contributions.

4 Q. And who suggested that you use it for those?

5 A. Jim.

6 Q. Let's turn to page six and again if you could look at
7 the page before that and just refresh yourself as to the
8 date of this statement, page five?

9 A. It says down below I think--I'm sorry, 3/28/11.

10 Q. Okay. Now looking at page six, March 17th, there's a
11 deposit of fourteen thousand eight hundred and fifty-six
12 dollars. What is that?

13 A. It would be a contri--I mean a deposit for--from the
14 bonus program for the contributions.

15 Q. Okay. Did you use that for any personal expenses like
16 tuition or otherwise?

17 A. No, sir.

18 Q. What did you use it for?

19 A. Political contributions.

20 Q. Political contributions that were suggested by whom?

21 A. Jim.

22 Q. And paid for by whom?

23 A. The company.

24 Q. Mepco?

25 A. Yes, sir.

O'Dell - Direct

1 Q. Turning then to--first of all, if you would look at page
2 seven of that exhibit and tell me the date of that
3 statement?

4 A. August 29th, 2011.

5 Q. All right. If we go to page eight, August 12th there's
6 a deposit of thirteen thousand two hundred dollars. Can you
7 tell me what that is?

8 A. It is a bonus payment for the political contribution
9 program.

10 Q. Okay. Did you--what did you use that money for?

11 A. Political contributions.

12 Q. Did you use it for any personal expenditures?

13 A. No, sir.

14 Q. The political contributions for which you used that
15 money, who made the decision on the politicians that were
16 supposed to receive that money?

17 A. Jim.

18 Q. Who paid for those contributions?

19 A. Mepco.

20 Q. Now if you'd turn with me to the last page and again,
21 before you do that, if you could look at page thirteen of
22 the exhibit just to refresh what the date of the statement
23 is?

24 A. March 27, 2013.

25 Q. Looking at March 14th, 2013 on page fourteen, there's a

O'Dell - Direct

1 fourteen thousand one hundred and eighty-seven dollar
2 deposit. Can you tell me what that is?

3 A. It is a bonus. It's a deposit from a bonus for the
4 political program.

5 Q. And did you use any of that fourteen thousand dollars
6 for personal expenses like tuition or anything?

7 A. No, sir.

8 Q. What did you use it for?

9 A. Political contributions.

10 Q. Who made the decision as to which politicians would
11 receive that money?

12 MR. CARR: Objection. Calls for speculation.

13 THE COURT: If he knows.

14 MR. BERNARD:

15 Q. If you know.

16 A. Yes, sir; Jim Laurita.

17 Q. Who ultimately paid for those political contributions?

18 A. Mepco.

19 Q. Let me ask you, would you or your wife have made any of
20 the political contributions we just talked about had the
21 company or the defendant not reimbursed you or told you were
22 going to be reimbursed for that money?

23 A. No, sir?

24 Q. Did--when this whole program was being presented to you,
25 did the defendant ever say to you or anybody on his behalf

O'Dell - Direct

1 say, hey, you know your salary just isn't commensurate with
2 the industry so I'm going to give you an additional fifty
3 thousand dollars to bring you up to speed?

4 A. I don't remember any conversation like that.

5 Q. You have in front of you if you could look at
6 Exhibit--what's been marked for identification as 1-62. Do
7 you have that in front of you?

8 A. Yes, sir.

9 Q. Would you tell--tell the jury in general what that is?

10 A. It is a copy of an e-mail sent from--from Mr. Laurita to
11 myself.

12 Q. And in part, or in general, did this e-mail relate to
13 contributions you were making pursuant to the defendant's
14 suggestions or directives?

15 A. Yes,

16 MR. BERNARD: Your Honor, I would ask that Exhibit
17 1-62 be admitted.

18 THE COURT: Any objection?

19 MR. CARR: No, Your Honor.

20 THE COURT: All right. Government Exhibit 1-62 is
21 admitted.

22 (Government Exhibit 1-62 admitted.)

23 BY MR. BERNARD:

24 Q. Would you pull that up please and blow up the bottom
25 section of it? Thank you. Now it appears that, and I'll

O'Dell - Direct

1 let you explain it in more detail, but it appears that there
2 is a--two e-mails, one that's being forwarded and one from
3 Mr. Laurita to you. Is that a fair statement?

4 A. Yes.

5 Q. And the lower e-mail mentions your name. Can you read
6 that, where it mentions your name?

7 A. Kevin O'Dell was going to send the remaining one
8 thousand via a post dated check from his wife Dawn.

9 Q. Okay. And that statement that Kevin O'Dell was going to
10 make the remaining one thousand dollars, was that something
11 you came up with on your own to make a one thousand dollar
12 contribution to apparently the McKinley campaign?

13 A. No, sir.

14 Q. Who made the decision that you were going to do that?

15 A. Jim.

16 Q. Who was alternately paying for that one thousand
17 dollars?

18 A. Mepco.

19 Q. Now the e-mail also says, if you can read right below
20 where it talks about you, what does that next line say?

21 A. I am following up with each of them as well but hoping
22 you could be helpful push as well--be a helpful push as
23 well. I'm sorry.

24 Q. During this program did you occasional get a helpful
25 push from the defendant or others to make sure you get your

O'Dell - Direct

1 contributions in?

2 A. I don't remember--I didn't remember this until I saw the
3 e-mail but, no, I don't think that happened on a regular
4 basis.

5 Q. Okay. Why is that?

6 A. I tried to do what I was asked.

7 Q. Tried to get your contributions in on time?

8 A. Yes, sir.

9 Q. And if you--in this instance it appears that you got a
10 push?

11 A. Yes, sir.

12 Q. Do you know why you hadn't gotten it in on time at that
13 time?

14 A. I don't remember.

15 Q. Okay. And this talks about--this e-mail is dated when?

16 A. April 4th, 2011.

17 Q. Okay. And it is a thousand dollars donation supposedly
18 from your spouse?

19 A. Yes, sir.

20 Q. Stacy, could you bring up Exhibit 12 page three? Blow
21 that up. This appears to be and I--the e-mail is dated, as
22 you have indicated, April 4th, 2011?

23 A. Yes, sir.

24 Q. This check--who wrote this check?

25 A. My wife.

O'Dell - Direct

1 Q. Okay. It appears to be post dated to March 31st, 2011,
2 is that a fair statement?

3 A. The date is March 31st, I can see that for sure.

4 Q. That's a thousand dollars to McKinley?

5 A. It is.

6 Q. Did that relate to this e-mail as far as you know or can
7 tell?

8 A. As far as I would know, yes, sir.

9 Q. So the push worked in this instance?

10 A. Yes, sir.

11 Q. In fact, let's go back to Exhibit 1-62 because I kind of
12 went over it quickly but at the top of that e-mail is--you
13 reference a message from Mr. Laurita, the defendant?

14 A. Yes.

15 Q. That's the message basically what--he's asking--help
16 moving your donation along?

17 A. Yes, sir.

18 MR. BERNARD: Excuse me, Your Honor.

19 (Pause)

20 BY MR. BERNARD:

21 Q. Now at some point while you were at Mepco, did the
22 contribution program and/or the deposits for contributions
23 end?

24 A. Yes, sir.

25 Q. Do you know why?

O'Dell - Cross

1 A. No.

2 Q. After--while you were at Mepco, after the deposits ended
3 or the reimburses ended, did you make any other
4 contributions?

5 A. No, sir.

6 Q. Political contributions, I meant.

7 A. I understand, yes, sir.

8 Q. Thank you.

9 MR. BERNARD: Your Honor, I pass this witness for
10 cross-examination. I'm happy to retrieve the exhibits
11 unless--

12 THE COURT: All right. Thank you. Do you want the
13 exhibits left up there for his use, Mr. Carr?

14 MR. CARR: Yes, Your Honor. Your Honor, may I have
15 a moment please?

16 THE COURT: Yes.

17 (Pause)

18 MR. CARR: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 CROSS EXAMINATION

21 BY MR. CARR:

22 Q. Mr. O'Dell, during some of the questions there was a
23 compound verb in there which was and who made--or who made
24 the suggestions or directed. Is it correct that the
25 campaigns and the amounts were always suggestions?

O'Dell - Cross

1 A. The term suggestion was always used as I remember; yes,
2 sir.

3 Q. At no time were you ever told from Jim Laurita that it
4 was mandatory?

5 A. I don't remember being told that it was mandatory.

6 Q. Did you also receive an anniversary bonus?

7 A. I may have, I don't remember that.

8 Q. And a wellness bonus?

9 A. Yes. I do remember that; yes, sir.

10 Q. There's a health bonus which was initiated?

11 A. Yes.

12 Q. And are you aware of whether or not those are
13 discretionary bonuses that Jim Laurita is authorized to
14 give?

15 A. I assume they are. I don't know.

16 Q. Did you ever disagree with giving money to a certain
17 campaign?

18 A. No, sir.

19 Q. Did you ever disagree with the amount?

20 A. No, sir.

21 Q. Are you aware of other executives that did and were you
22 present for any of those discussions?

23 A. Not that I remember.

24 Q. At any time did Jim Laurita ever tell you to hide the
25 fact that the additional bonuses had something to do with

O'Dell - Cross

1 political contributions?

2 A. I don't remember being told that.

3 Q. You were never told to destroy documents or e-mails?

4 A. I don't remember being told to do that.

5 Q. And the payments were made to you through the normal
6 payroll system, just like all other payments from Mepco, is
7 that correct?

8 A. Yes, sir.

9 Q. And they showed up on your bank statements in the same
10 way?

11 A. That's correct.

12 Q. The payments were also made a few times a year in a lump
13 sum payment?

14 A. Yes, sir.

15 Q. At no time was there anything such as, hey, we need a
16 thousand dollar check. We'd like to have a thousand dollar
17 check. Here's a thousand dollars, now give me the check?

18 A. I don't remember it being like that; no, sir.

19 Q. All the money that you were paid by Mepco went into the
20 same bank account, is that correct?

21 A. Yes.

22 Q. If I can draw your attention to Government Exhibit 1-62,
23 the e-mail.

24 A. Okay.

25 Q. Were you aware at the time that the campaigns were

O'Dell - Cross

1 tracking your contributions?

2 A. No. I was aware that Karen had a, you know, a sheet
3 that was tracking what we were asked to do and what we did
4 but I don't know about the campaigns themselves.

5 Q. Were you surprised to see this e-mail then when the
6 campaigns were keeping track of your donations?

7 A. I don't remember--I don't remember the e-mail actually
8 but I don't remember being surprised; no, sir.

9 Q. And as far as Jim forwarding that e-mail to you, with
10 the statement, which the Government's already gone over in
11 on direct, was there any other follow up from Jim?

12 A. I don't remember any.

13 Q. He just simply sent the e-mail and said any help would
14 be appreciated?

15 A. That's all that I remember.

16 Q. Is it accurate, Mr. O'Dell, that the vast majority of
17 your household income comes from your--at the time in 2010
18 and 12, '13 came from your employment with Mepco?

19 A. I don't know what your term vast majority is but, yes,
20 sir, most of my income would be from employment.

21 Q. Did you have any other source of income?

22 A. I'm sorry. I thought you were differentiating between
23 the bonus and the other income. So, no, you're exactly
24 right. It was all my income. I'm sorry. I misunderstood
25 you.

O'Dell - Cross

1 Q. No, no, no. It was a bad question on my part. All of
2 your income came from Mepco?

3 A. Yes, sir. My wife was employed from time to time but
4 for myself it was all my income.

5 Q. I'm going to ask that page three of Government Exhibit
6 12 be displayed. I apologize. Page four. If we could
7 highlight the bottom portion of that statement. Mr. O'Dell,
8 this is your Marriott rewards credit card?

9 A. It is.

10 Q. And again we are referencing, for the record, page four
11 of Government Exhibit 12. Mr. O'Dell, because all of your
12 income except for the times when your wife worked, came from
13 Mepco. Would you agree with me for instance that--well
14 would you agree with me the first entry is McDonalds of
15 Westover for two dollars and seventy-five cents? Is that
16 correct?

17 A. Yes.

18 Q. And you decided to go to McDonald's, correct?

19 A. Yes, sir.

20 Q. But ultimately Mepco paid for that?

21 A. That's fair to say; yes, sir.

22 Q. And on the next entry is Sheetz of Morgantown, is that
23 correct?

24 A. It is.

25 Q. Seven dollars and sixty-two cents if I can read that

O'Dell - Cross

1 correctly?

2 A. Yes.

3 Q. And ultimately you used Mepco money to pay for that?

4 A. Yes, sir.

5 Q. And 4/9, Bob Evans of Morgantown thirty dollars and
6 sixty-one cents?

7 A. Yes.

8 Q. And again, Mepco money paid for that?

9 A. Correct.

10 Q. That's true of every entry on this credit card, is it
11 not?

12 A. Yes, sir.

13 Q. Under--

14 A. Yeah, I understand. Yes, sir.

15 Q. There wasn't any other source of income you had?

16 A. Save the little bit--or what my wife may deposit from
17 time to time but, yes, that's all.

18 MR. CARR: Your Honor may I have just a moment
19 please?

20 THE COURT: Yes.

21 (Pause)

22 BY MR. CARR:

23 Q. Mr. O'Dell, Jim Laurita never gave you any indication
24 that there was anything wrong with what has been referred to
25 as the program, is that correct?

O'Dell - Redirect

1 A. That is correct.

2 Q. And you never indicated to him that you believed there
3 was anything wrong with the program?

4 A. No, sir.

5 MR. CARR: No further questions at this time, Your
6 Honor.

7 THE COURT: All right. Any redirect?

8 MR. BERNARD: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. BERNARD:

11 Q. Would you bring up Exhibit 12 page four again please?
12 Sir, during cross-examination there was a discussion about
13 your statement which is page four of Exhibit 12 and you also
14 talked--a little bit about Ms. Hughes and her spreadsheet
15 concerning donations and tracking the same. Did Karen
16 Hughes, to your knowledge, track how you spent your salary
17 in a spreadsheet?

18 A. No, sir.

19 Q. Did she track how you spent your tonnage bonus?

20 A. No, sir.

21 Q. But she did track how you spent this additional bonus?

22 A. Yes, sir.

23 Q. Why?

24 MR. CARR: Objection. Calls for speculation.

25 MR. BERNARD: If you know?

O'Dell - Redirect

1 THE COURT: Thank you. With the correction I'll
2 allow it.

3 BY MR. BERNARD:

4 A. I would assume--well I know it was to make sure that
5 when we--there was enough money to cover the contributions
6 that were suggested.

7 Q. Did she also track the contributions that were made?

8 A. I assume she did.

9 Q. Did the defendant ever send you an e-mail saying, hey,
10 you haven't been to McDonald's lately, you should probably
11 go there on this date and spend your salary?

12 A. No, sir.

13 Q. But he did send you an e-mail, as we've discussed, when
14 your contribution was a little late, political contribution?

15 A. Yes.

16 Q. Now there was a question about legality and whether the
17 defendant--and I don't know the exact language so I'll
18 paraphrase, whether the defendant ever indicated that there
19 was anything unlawful or untoward concerning this program.

20 Do you remember that discussion with Mr. Carr?

21 A. Yes.

22 Q. When the defendant was proposing this program to you,
23 did you trust the defendant and whether the program--whether
24 there was any problem with the program?

25 A. I did.

O'Dell - Redirect

1 Q. And you trusted him--it was his idea. He came up with
2 the program and this reimbursement program, for lack of a
3 better term?

4 A. I--

5 MR. CARR: Objection. Calls for speculation.

6 MR. BERNARD: I'm asking whether he trusted the
7 defendant, Your Honor.

8 THE COURT: Overruled.

9 BY MR. BERNARD:

10 A. I trust Jimmy.

11 Q. Now just so we're clear, everything else aside, to your
12 knowledge the defendant was aware and had even made
13 suggestions to you about donations to political campaigns.
14 Is that a fair statement?

15 A. So that again please.

16 Q. The defendant, Mr. Laurita, was aware that you were
17 making campaign contributions?

18 THE COURT: Are you summing up or are you tracking
19 on redirect what was on the cross examination?

20 MR. BERNARD: A little bit of both I think.

21 THE COURT: Limit it to the cross examination.

22 BY MR. BERNARD:

23 Q. Whether the defendant ever talked to you about the
24 legality of this program or the appropriateness of the
25 program, to your knowledge was he aware of the fact that you

O'Dell - Recross

1 were making the contributions and the company was
2 reimbursing them.

3 A. He was--

4 MR. CARR: Objection. Calls for speculation.

5 MR. BERNARD: To your knowledge.

6 THE COURT: It's to his knowledge. Overruled.

7 BY MR. BERNARD:

8 A. Yes, he was aware.

9 MR. BERNARD: Okay. Thank you. I have no further
10 questions.

11 THE COURT: Any further cross-examination?

12 MR. CARR: Just a brief moment, Your Honor.

13 (Pause)

14 MR. CARR: Briefly, Your Honor.

15 RECROSS EXAMINATION

16 BY MR. CARR:

17 Q. Mr. O'Dell, why did you trust Jim Laurita?

18 A. I had worked with Jim for several years. He had proven
19 to be, and I believe is, a very honest and good man.

20 MR. CARR: Nothing further, Your Honor.

21 THE COURT: All right. Is the witness excused?

22 MR. CARR: The witness is excused on behalf of the
23 United States. I don't know if he's subject to recall or
24 not.

25 MR. CARR: Your Honor--no, Your Honor.

Osborn - Direct

1 THE COURT: All right. Mr. O'Dell, you are free to
2 go. You may step down. You are excused as a witness.

3 (Witness excused)

4 THE COURT: The Government may call its next
5 witness.

6 MR. BERNARD: Your Honor, the United States would
7 call Brian Osborn.

8 THE COURT: Brian Osborn. Mr. Bernard, do you want
9 to retrieve the exhibits you used with the witness?

10 MR. BERNARD: Sure. Yes, Your Honor.

11 THE COURT: Thank you.

12 MR. BERNARD: You're welcome.

13 THE COURT: Mr. Osborn, good morning. I'm Judge
14 Keeley. Would you please come forward right through the
15 middle there and approach the Clerk standing in front of me
16 and she will administer the oath to you before you take the
17 witness stand.

18 BRIAN OSBORN, GOVERNMENT'S WITNESS, SWORN

19 THE CLERK: Thank you. If you would please have a
20 seat in the witness stand. The witness is Brian Osborn,
21 O-s-b-o-r-n.

22 DIRECT EXAMINATION

23 BY MR. BERNARD:

24 Q. Good morning, sir. Could you please give us your name,
25 a little bit of your background, where you're employed,

Osborn - Direct

1 where you live?

2 A. My name is Brian Matthew Osborn. My background is that
3 I'm from--originally from Bridgeport. I'm a mining
4 engineer. I graduated from WVU in 1985 and I currently am
5 employed with Mepco LLC in Morgantown.

6 Q. And when did you, if you recall, first become employed
7 with Mepco?

8 A. 1997.

9 Q. And in approximately 2010 what role did you serve at
10 Mepco?

11 A. I was the Vice President of Engineering.

12 Q. I don't know if you said, if you did I missed it, but
13 where are you currently employed and what is your title?

14 A. I am currently employed at Mepco LLC and my current
15 title is Senior Vice President of Operations.

16 Q. It's fair to say that you know the defendant
17 Mr. Laurita?

18 A. Yes.

19 Q. Do you recall in or about 2010 being approached by
20 Mr. Laurita, the defendant, concerning making political
21 contributions?

22 A. Yes.

23 Q. How did you--how were you approached? What happened?

24 A. He had called a meeting of the officers.

25 Q. Okay. What happened at that meeting?

Osborn - Direct

1 A. Jim mentioned to us that we were needing to have access
2 to certain elected officials and he explained that to do
3 that, political contributions would help us as a company do
4 that.

5 Q. Did he specifically tell you how political contributions
6 correlated to access the politicians?

7 A. I don't really recall that part.

8 Q. Okay. But his statement was in order to have access we
9 need to make contributions?

10 A. Correct.

11 Q. Okay. What specifically or how did he describe this
12 process? How was it going to work?

13 A. The mechanics of it?

14 Q. Yes.

15 A. I don't recall him making any statements to that effect
16 at that meeting.

17 Q. At some point did somebody, either the defendant or
18 somebody on his behalf, tell you how it was going to work?

19 A. No. The way it happened was I received money and
20 requests from other folks at the company to make
21 contributions.

22 Q. Specifically tell me how that happened then. You
23 received the money how?

24 A. I received the money through my payroll and it was
25 deposited by direct deposit into my checking account or

Osborn - Direct

1 wherever it was at the time. I had two bank accounts over
2 the years.

3 Q. So at this time--let's break your salary or your
4 compensation down a little bit. You indicated that you had
5 two bank accounts?

6 A. Yes.

7 Q. Where was--was your salary deposited into either or of
8 those accounts?

9 A. It was either one or the other. I had just changed
10 accounts.

11 Q. And how was it deposited?

12 A. It was direct deposit and it was deposited periodically.
13 Well I shouldn't say periodically. It was deposited--there
14 was no rhyme or reason to it. It was sometimes before the
15 contribution, sometimes after the contribution was made.

16 Q. Let me back you up a little bit. I'm talking in general
17 your salary, how was that--your overall salary?

18 A. It was paid every two weeks.

19 Q. Okay. And did you receive any bonuses--prior to this
20 contribution program were you receiving regular bonuses?

21 A. Yes.

22 Q. Were those the so-called tonnage bonuses?

23 A. Yes.

24 Q. How often did you receive a tonnage bonus?

25 A. Monthly.

Osborn - Direct

1 Q. So during a particular month, before this contribution
2 program, how many deposits for salary would you get per
3 month?

4 A. Two.

5 Q. Okay. And how many deposits for bonuses would you get?

6 A. I would get one for tonnage.

7 Q. And then once this program began, I think what you just
8 said, is additional deposits would--would show up on a
9 sporadic basis?

10 A. That's correct. Yes.

11 Q. And if I call this the second bonus, do you know what
12 I'm talking about?

13 A. Yes.

14 Q. Okay. The second bonus being the political contribution
15 fund?

16 A. Yes.

17 Q. Now once--do you recall initially when the program
18 began, did you start making contributions out of the gate?
19 Did you receive funds out of the gate, if you recall?

20 A. I do not recall that.

21 Q. When you were to make a political contribution, what
22 were the mechanics of that? How is it that you knew to make
23 a political contribution to whomever?

24 A. I would receive an e-mail or I would receive a written
25 request from other folks.

Osborn - Direct

1 Q. Is it fair to say--did you ever--let me ask it this way.
2 Did you ever, during this program, just decide, hey, I'm
3 going to write a check to this campaign for twenty-five
4 hundred dollars on your own volition?

5 A. No.

6 Q. Whose direction did you wait for before you made a
7 contribution?

8 A. It was Karen Hughes or Suzanne Crane.

9 Q. And at whose direction, to your knowledge, were they
10 making those decisions?

11 A. I think that came directly from Jim. That is my
12 understanding.

13 Q. At the meeting or when it was discussed with you, who
14 was the one that was going to be the, I guess the one in
15 charge of this program making those decisions?

16 A. It was my understanding it was Jim.

17 Q. It wasn't going to be you?

18 A. No, sir.

19 Q. And who was the one, as far as you knew, that was going
20 to pay for those contributions?

21 A. The company.

22 Q. Mepco?

23 A. Yes.

24 Q. Who was the one that decided that Mepco was going to pay
25 for those?

Osborn - Direct

1 A. Jim.

2 Q. Did you have any concern about, you know, where is this
3 money going to come from, that if I'm going to be making
4 political contributions where am I going to get the money
5 from?

6 A. I knew that I would be made whole; that I would be
7 reimbursed for those contributions.

8 Q. So you weren't worried about losing money?

9 A. No.

10 Q. You weren't worried about losing compensation?

11 A. No.

12 Q. Had you ever made a political contribution, either you
13 or your wife, prior to the Mepco program?

14 A. No.

15 Q. Did you have any--did you voice any concerns or--or you
16 voice any hesitancy about the program when it was first
17 addressed with you?

18 A. No I didn't.

19 Q. Why not?

20 A. I didn't think there was anything wrong with it.

21 Q. Why not?

22 A. I trusted Jim, that he would make good decisions like he
23 had my whole career.

24 Q. You were relying on him?

25 A. Yes.

Osborn - Direct

1 Q. Okay. During this time frame at Mepco, who was
2 responsible for promoting you?

3 A. Jim.

4 Q. Who determined what your pay was going to be?

5 A. Jim.

6 Q. And who had the power to demote or terminate you?

7 A. Jim.

8 Q. Let's talk a little bit about the communication during
9 this program. How is it that you learned or were going to
10 learn which candidates and how much you were supposed to
11 donate? How was that going to work or how did it work?

12 A. It worked by--through e-mails from Karen or Suzanne or I
13 would receive a slip of paper with the contribution form
14 attached.

15 Q. What were--what information was contained in these
16 e-mails or forms or whatever communication you received?

17 A. It would say something like suggested contribution to
18 such and such elected official or one running for office.

19 Q. Did it--did it delineate in those communications who
20 should be making the contribution, whether it is you or your
21 spouse?

22 A. Yes, it would.

23 Q. Do you recall, during the program, some of the campaigns
24 to which you contributed through the Mepco program?

25 A. Yes.

Osborn - Direct

1 Q. Would you tell us some of those if you recall?

2 A. Yes, I remember Senator Manchin, Representative
3 McKinley, Mr. Altmire, Mr. Critz, Ms. Capito. Those are the
4 ones that come to mind.

5 Q. Okay. Now I think you indicated a few minutes ago that
6 among the ways the wishes or desires of the defendant
7 concerning political contributions--among the ways those
8 were communicated to you included e-mails, are you with me?

9 A. Yes.

10 Q. And I believe--who sent those e-mails to you?

11 A. Karen Hughes or Suzanne Crane.

12 Q. Do you recall among those e-mails ever being asked to
13 delete them after you read them or were received them?

14 A. I do recall one, yes.

15 Q. Okay. And had you ever received a request by Karen or
16 anybody at Mepco to delete an e-mail that had been sent to
17 you--to specifically delete an e-mail?

18 A. Yes.

19 Q. And what was that?

20 A. That was from Karen Hughes. I don't recall exactly what
21 the e-mail said but I do recall the e-mail.

22 Q. Did it relate to this campaign contribution program?

23 A. Yes.

24 Q. Okay. Other than that e-mail that you recall--had you
25 ever in your entire time at Mepco been asked to delete an

Osborn - Direct

1 e-mail specifically in the body of an e-mail?

2 A. No.

3 Q. What was your reaction being asked to delete the e-mail?

4 MR. CARR: Objection. Relevance.

5 THE COURT: Sustained.

6 BY MR. BERNARD:

7 Q. Who--when you got the contribution together, whether it
8 be a check or credit card charge, how was it then delivered
9 to the campaigns or how did the process next work?

10 A. I would--whether it was check or credit card application
11 I would turn those into the person who requested them.

12 Q. So--well let me ask you. Who were the individuals
13 typically under this program that collected your
14 contributions?

15 A. Karen Hughes or Suzanne Crane.

16 Q. Okay. Do you know what happened to them after you
17 delivered them to either Ms. Hughes or Ms. Crane?

18 A. No.

19 Q. Did you have--was there ever indication that the checks
20 that you made, the credit card contributions that you made
21 never reached the campaigns or went somewhere else other
22 than to the campaigns?

23 A. Could you repeat that please?

24 Q. Yes. To your knowledge, the money that you wrote, the
25 checks that you wrote, the credit card payments that you

Osborn - Direct

1 made to political campaigns, do you have any knowledge that
2 they never made it to the campaigns?

3 A. No.

4 Q. As far as you know they did?

5 A. Yes.

6 Q. Who--how did you keep records of contributions you made
7 and how much you were owed or how much you had pulled off an
8 advance? Did you keep records?

9 A. I did.

10 Q. So you would then do what with your records?

11 A. I just would mention to Karen if I thought I was short
12 or, you know, ahead too far.

13 Q. Did she also keep records, to your knowledge?

14 A. I believe she did but I don't have any evidence of that.

15 Q. Did you ever receive any spreadsheets or anything along
16 those lines from Ms. Hughes concerning the campaign
17 contribution program?

18 A. I don't recall specifically if it was a spreadsheet but
19 I do recall receiving some information to that effect, yes.

20 Q. Did you--other than your bank statements, did you keep
21 any specific records concerning your tonnage bonuses?

22 A. No I did not.

23 Q. Now, did you, as part of this program, attend any
24 fundraisers?

25 A. I did.

Osborn - Direct

1 Q. And were other Mepco executives there at some of these
2 fundraisers?

3 A. Yes.

4 Q. Was the defendant at those fundraisers?

5 A. Yes.

6 Q. During the fundraisers who was the voice of the company,
7 for lack of a better term?

8 A. It was Jim.

9 Q. Did you run any of the fundraisers or who was in charge?

10 A. I did not run fundraisers and Jim was in charge.

11 MR. BERNARD: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 MR. BERNARD: Thank you.

15 BY MR. BERNARD:

16 Q. I have set in front of you two exhibits and I will ask
17 about them individually. Turning first to what's been
18 marked as Exhibit 2, could you tell me what that compilation
19 exhibit represents in general, without getting into
20 specifics right now?

21 A. These are records of contributions to political
22 candidates.

23 Q. Okay. And I guess a little more specifically would they
24 include checks as well as credit card payments?

25 A. Yes.

Osborn - Direct

1 Q. And those were payments made pursuant to this program
2 we've been talking about, the Mepco program?

3 A. Yes.

4 MR. BERNARD: Your Honor, at this time I would ask
5 that Exhibit 2 be admitted.

6 THE COURT: Any objection?

7 MR. CARR: No, Your Honor.

8 THE COURT: Government Exhibit 2 is admitted.

9 (Government Exhibit Number 2 admitted.)

10 MR. BERNARD: Thank you, Your Honor.

11 BY MR. BERNARD:

12 Q. The--we'll get into this more specifically, but these
13 contributions, the checks and the credit card charges made
14 to political campaigns, at whose direction did you make
15 these?

16 A. As I said before it was at Karen Hughes or Suzanne
17 Crane's direction.

18 Q. Okay. And, again, where were they receiving their
19 instructions, to your knowledge?

20 A. Yes, from Jim.

21 Q. And all of these contributions, who ultimately paid for
22 them?

23 A. The company.

24 Q. Let me ask you to look at Exhibit 3 please and in
25 general again, just identify what that includes?

Osborn - Direct

1 A. These are my bank records.

2 Q. And do those bank records reflect payments made by Mepco
3 as reimbursements or advancements for the political
4 contributions we have talked about?

5 A. Yes, sir.

6 Q. Let me ask you to keep Exhibit 3 in front of you and
7 look at page one. First of all, can you tell me, from
8 looking at page one, what is this and what time frame does
9 it concern?

10 A. This is a bank record from my United Bank checking
11 account. It is from February 2010 through March of 2010.

12 Q. Looking specifically at a deposit March 9th, 2010 of
13 eleven thousand dollars two hundred and twenty-six dollars.

14 MR. BERNARD: Oh, I'm sorry. Your Honor, I'd ask
15 that this Exhibit 3 be admitted.

16 THE COURT: Is there any objection?

17 MR. CARR: No, Your Honor.

18 MR. BERNARD: I got ahead of myself.

19 THE COURT: Government Exhibit 3 is admitted.

20 (Government Exhibit Number 3 admitted.)

21 MR. BERNARD: I apologize.

22 BY MR. BERNARD:

23 Q. Do you see that eleven thousand two hundred and
24 twenty-six dollar deposit?

25 A. Yes, sir.

Osborn - Direct

1 Q. What is that?

2 A. That would've been a--either a pre-payment or a post
3 payment for a political contribution or contributions.

4 Q. Did you use any of that money, that eleven thousand two
5 hundred and twenty-six dollars for any personal expenditures
6 like tuition or anything else?

7 MR. CARR: Objection. Leading.

8 THE COURT: Sustained.

9 BY MR. BERNARD:

10 Q. Did you use any of that money for personal expenditures?

11 MR. CARR: Renew my objection.

12 THE COURT: You're suggesting the area. You should
13 ask a general question. Sustained again.

14 BY MR. BERNARD:

15 Q. Did you use any of that money for anything other than
16 political contributions?

17 THE COURT: How about what was the money used for?

18 MR. BERNARD: All right.

19 BY MR. BERNARD:

20 Q. What was the money used for?

21 A. It was used for political contributions.

22 Q. Anything other than that?

23 A. No.

24 Q. Thank you. Looking at page two, there is a--and again
25 could you tell us what the date of that statement is, the

Osborn - Direct

1 date range?

2 A. This is a bank statement from October 1st through the
3 29th of 2010.

4 Q. Okay. There is a deposit October 6th of nine thousand
5 nine hundred and thirty-four dollars. Could you tell us
6 what that is?

7 A. That appears to be reimbursement for a political
8 contribution.

9 Q. What did you use that for?

10 A. For political contributions.

11 Q. Did use it for anything other than that?

12 A. No.

13 Q. Turning next to page three I believe, could you tell me
14 what the date of that statement is or at least that portion
15 of the statement?

16 A. That was March 1st through the 31st of 2011.

17 Q. Looking at March 17th there's a deposit of fourteen
18 thousand eight hundred and fifty-six dollars. Could you
19 tell us what that is?

20 A. That is a reimbursement for political contribution.

21 Q. What did you use that for?

22 A. Political contributions.

23 Q. Anything other than political contributions?

24 A. No.

25 Q. Turning then to page four please, and again if you could

Osborn - Direct

1 look and tell us what the date range is of this statement or
2 portion of the statement?

3 A. That is a bank record of mine from July 30th of 2011 to
4 August 31st of 2011.

5 Q. Looking at August 12th there is a deposit of thirteen
6 thousand two hundred dollars. What is that?

7 A. That would have been a reimbursement for a political
8 contribution.

9 Q. What did you spend it on?

10 A. Political contributions.

11 Q. Anything other than political contributions?

12 A. No.

13 Q. Then finally if you will flip to page seven of that
14 exhibit and first of all could you tell me what the date
15 range is with regard to this statement?

16 A. March 1st through the 29th of 2013.

17 Q. Looking at March 14th there's a fourteen thousand five
18 hundred and eighty-seven dollar fifty cent deposit. Can you
19 tell me what that is?

20 A. That was a reimbursement for a political contribution.

21 Q. What did you use those funds for?

22 A. Political contributions.

23 Q. Anything else?

24 A. No.

25 Q. And all the contributions you made pursuant to these

Osborn - Direct

1 deposits we just talked about, at whose direction did you
2 make those contributions?

3 A. From Karen Hughes and Suzanne Crane.

4 Q. And who did they receive their direction from to your
5 knowledge?

6 A. Jim.

7 Q. And who--obviously the money came from your bank account
8 and your checking account--excuse me, your credit cards.
9 Who ultimately paid for all of those payments reflected by
10 your contributions?

11 A. The company.

12 Q. Let's look at Exhibit 2 which I believe has been
13 admitted. We will go through these rather quickly. Page
14 one is what?

15 A. That is a check for political contribution.

16 Q. Okay. And that is made apparently by your spouse?

17 A. Yes.

18 Q. At whose direction did she make that contribution?

19 A. At my direction.

20 Q. And from whom did you receive your direction?

21 A. From Karen Hughes I believe at that time.

22 Q. And ultimately who directed her to do that?

23 A. Jim.

24 Q. Who paid for this contribution?

25 A. The company, Mepco.

Osborn - Direct

1 Q. Turning to page two there are a total of four checks but
2 I'm interested in looking at the three checks on the bottom.
3 Can you read those?

4 A. Yes.

5 Q. What are those three checks?

6 A. Those are three checks to political candidates.

7 Q. Okay. And what candidates are contained or being--are
8 receiving these contributions?

9 A. Two were to David McKinley and the third was to
10 Oliverio.

11 Q. Same question as before, ultimately who directed that
12 these contributions be made?

13 A. Jim.

14 Q. And ultimately who paid for them?

15 A. Mepco.

16 Q. Let's turn over to page three--and actually page four
17 more specifically. What does this represent, this page
18 first of all?

19 A. This is a credit card statement.

20 Q. Are you able to tell approximately what year this
21 is--this is for?

22 A. This is for 2010.

23 Q. And more specifically with regard to this exhibit, I
24 believe it's August 19th, there is a charge Manchin for West
25 Virginia. Do you see that?

Osborn - Direct

1 A. Yes.

2 Q. And it appears to be a thousand dollar charge?

3 A. Yes.

4 Q. What is that?

5 A. That's a political contribution to Senator Manchin.

6 Q. Ultimately who directed that that be made?

7 A. Jim did.

8 Q. And ultimately who paid for it?

9 A. Mepco.

10 Q. Turn to page five please, page five of Exhibit 2, I'm
11 sorry. What is that way?

12 A. That's a political contribution to Senator Capito.

13 Q. Okay. And, again, who ultimately directed this be made?

14 A. Jim.

15 Q. Who ultimately paid for it?

16 A. Mepco.

17 Q. Let's go to page six. What is this?

18 A. This is a political contribution to David McKinley.

19 Q. Okay. And, again, who directed ultimately that that be
20 made?

21 A. Jim.

22 Q. And who ultimately paid for it?

23 A. Mepco.

24 Q. Let's go to page seven. Can you tell me what that is?

25 A. This is a political contribution to David McKinley.

Osborn - Direct

1 Q. Okay. And it's interesting on the memo line it says for
2 Lory Osborn. Do you know what that means?

3 A. That is not my handwriting so someone must have put that
4 on the check on her behalf.

5 Q. Do you know why it was put there on her behalf?

6 A. Probably so--

7 MR. CARR: Objection. Calls for speculation.
8 Foundation.

9 MR. BERNARD: If you know?

10 THE COURT: Sustained.

11 BY MR. BERNARD:

12 Q. Do you know? If you don't--

13 A. I don't.

14 Q. Okay. Ultimately who directed that this check be
15 written and the contribution made--be made?

16 A. Jim.

17 Q. Ultimately who paid for this contribution?

18 A. Mepco.

19 Q. Let's go to page eight of the same exhibit. Could you
20 tell me what that is?

21 A. This is a political contribution to David McKinley.

22 Q. Okay. This is made from what I can see, and correct me
23 if I'm wrong, on the same date as the prior check for
24 twenty-five hundred dollars?

25 A. That's correct.

Osborn - Direct

1 Q. Do you know why there were two checks written on that
2 date?

3 A. One was for--on my behalf and one was for my wife's.

4 Q. Looking at the check on page eight, check number eleven
5 seventy-two, who ultimately directed that you make that
6 contribution?

7 A. Jim did.

8 Q. Who ultimately paid for that?

9 A. The company.

10 Q. Let's look at page nine. Can you tell me what that is?

11 A. This is a credit card statement.

12 Q. Okay. Do you know what year--month or year that it
13 relates to?

14 A. I'm sorry, I don't see the date on the sheet there.

15 Q. If you look up at the top below the days in the billing
16 cycle, purchases this year, there's a statement date. I'll
17 try to help you out a little bit. Do you see that?

18 A. Oh, yes I do.

19 Q. Okay.

20 A. It's from March the 10th of 2012.

21 Q. All right.

22 A. I'm sorry. May 10th of 2012.

23 Q. Okay. Thank you. There is a charge, if you look down
24 at the purchases, April 12 for Manchin for West Virginia
25 five thousand dollars. What is that?

Osborn - Direct

1 A. That is a political contribution to Senator Manchin.

2 Q. And at whose ultimate direction was that made?

3 A. From Jim.

4 Q. Who ultimately paid for that?

5 A. Mepco.

6 Q. Turning to page eleven, can you tell me what that is?

7 A. That's a credit card statement.

8 Q. I'm sorry. I'm sorry. Page ten. Could you tell me
9 once again what date this statement relates to?

10 A. This is from October the 10th of 2012.

11 Q. Looking down at September 14th and 15th, there's a
12 couple charges to Tomblin for Governor. What are those?

13 A. Those are political contributions to Governor Tomblin.

14 Q. Okay. And who ultimately directed that these be made?

15 A. Jim did.

16 Q. And who alternately paid for those?

17 A. Mepco.

18 Q. Now we're at page eleven. Could you tell me what that
19 is?

20 A. This is a political contribution to Mr. Snuffer.

21 Q. Okay. And is it a political contribution, did you say?

22 A. Yes.

23 Q. Okay. At whose ultimate direction was this contribution
24 made?

25 A. Jim.

Osborn - Direct

1 Q. And who ultimately paid for that political contribution?

2 A. Mepco.

3 Q. Finally the last--well actually it's the next to the
4 last page. We've got two more. If you look at page twelve
5 and first of all tell me, if you can, what month and year
6 this statement related to?

7 A. This was from April of 2013.

8 Q. And then looking down at the actual details, a few
9 PayPal transactions and it appears to be Morrissey on--can
10 you tell me what those four charges were for?

11 A. Yes. These were political contributions to Morrissey. I
12 am not sure what the election was though.

13 Q. It says AG, would that be Attorney General?

14 A. That's fair.

15 Q. At whose ultimate direction were these made?

16 A. Jim's.

17 Q. And who ultimately paid for those?

18 A. Mepco.

19 Q. Now we're on the last page. What is the date of that
20 statement?

21 A. This is from April of 2005. I'm sorry I think---I can't
22 see that very clear. It may be April of 2009.

23 Q. Actually if you look at--there's total fees charged in
24 2013, if that helps you.

25 A. I'm sorry. Yes, I see it now. 2013.

Osborn - Direct

1 Q. April of 2013?

2 A. Yes, sir.

3 Q. Okay. And if you look at April 1st there's a couple
4 charges for twenty-six hundred dollars, two separate
5 charges. What are those?

6 A. Those are political contributions to Dave McKinley for
7 Congress.

8 Q. At whose ultimate direction were these made?

9 A. Jim's.

10 Q. And who ultimately paid for those?

11 A. Mepco did.

12 Q. Let me ask you. All these contributions that we have
13 just discussed and gone over, would you or your wife have
14 made any of those contributions but for the direction of the
15 defendant and more importantly the reimbursement by the
16 defendant from Mepco?

17 MR. CARR: Objection. Leading.

18 THE COURT: Overruled.

19 BY MR. BERNARD:

20 A. No we would not have.

21 Q. Do you recall whether the program, while you've been at
22 Mepco, at some point did the program end?

23 A. Yes, it did.

24 Q. Do you know why?

25 A. No I don't.

Osborn - Cross

1 Q. Did you ask, hey, what happened to my second bonus?

2 A. No I didn't.

3 Q. Because that would've been a cut in pay, right?

4 A. No, it wouldn't.

5 Q. Why not?

6 A. Because it wasn't my money.

7 MR. BERNARD: Thank you. I have no further
8 questions at this time.

9 THE COURT: All right. Cross examination?

10 MR. BERNARD: First of all, do I need to retrieve
11 the exhibits or are you going to use those.

12 MR. CARR: You can retrieve them.

13 CROSS EXAMINATION

14 BY MR. CARR:

15 Q. Mr. Osborn, it is correct, is it not, that Jim
16 Laurita--neither Jim Laurita nor Karen Hughes nor Suzanne
17 Crane said that the donations were mandatory?

18 A. No, sir. No, they did not.

19 Q. They did not. There was always suggestions?

20 A. That's correct.

21 Q. Did you ever have a disagreement with the suggestion?

22 A. No, sir.

23 Q. You mentioned I believe on direct examination two
24 e-mails that you recall in which either Karen Hughes or
25 Suzanne Crane mentioned something about deleting the

Osborn - Cross

1 e-mails?

2 A. I only recall one.

3 Q. One.

4 A. From Karen Hughes.

5 Q. That was the one from Karen Hughes?

6 A. Yes.

7 Q. And Jim Laurita never told you to delete anything
8 concerning this program, did he?

9 A. No, sir.

10 Q. Jim Laurita never told you to deny, if someone asked
11 you, what the second bonus was in relation to?

12 A. No.

13 MR. CARR: May I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. CARR:

16 Q. I am handing the witness what has been marked as
17 Defendant's Exhibit A and it's been shown to the Government.
18 Do you recognize that document?

19 A. Yes, I do.

20 Q. What is it?

21 A. This is a request from Karen Hughes for me to make a
22 donation.

23 Q. And what is the date on it?

24 A. October 4th, 2010.

25 Q. And it's a two-page document?

Osborn - Cross

1 A. Yes.

2 MR. CARR: Your Honor, I move for the admission
3 Of Defendant's Exhibit A.

4 THE COURT: Is there any objection to the admission
5 of Defendant's Exhibit A?

6 MR. BERNARD: No objection.

7 THE COURT: Defendant's Exhibit A is admitted.

8 (Defendant Exhibit A admitted.)

9 MR. CARR: Your Honor, if I may have the ELMO
10 turned on.

11 THE COURT: Yes. It may take just--okay. There it
12 comes up. Sometimes it takes a minute to warm up.

13 BY MR. CARR:

14 Q. Mr. Osborn this is an e-mail from Karen Hughes to you,
15 is that correct?

16 A. Yes it is.

17 Q. And is this one of the e-mail that--an example of an
18 e-mail that you referred to earlier where Karen Hughes was
19 talking to you about contributions?

20 A. Yes.

21 Q. And she indicates that there is a second page, is that
22 correct or an attachment?

23 A. Yes.

24 Q. And I'm going to take the first page, the printed off,
25 off. That is the attachment to the e-mail?

Osborn - Cross

1 A. Yes.

2 Q. And she says the yellow highlights are the donations I
3 have not yet received from you. If you intend to make those
4 donations, please fill in the amount and return to me. Is
5 that the typical type of language that Karen Hughes used
6 when she talked to you about donations?

7 A. Yes, it is.

8 Q. She is in no way saying this is a mandatory donation,
9 where is your check, correct?

10 A. That's correct.

11 Q. She's asking if you made the decision to make the
12 donation, correct?

13 A. Correct.

14 Q. And then asks, are you and Lory--and again, Lory is your
15 wife?

16 A. Yes.

17 Q. Both making a fourteen hundred dollar donation to
18 McKinley, is that correct?

19 A. Yes.

20 Q. And, again, she is asking whether you and your wife have
21 decided about making a fourteen hundred dollar donation?

22 A. Yes.

23 MR. CARR: If I could retrieve Government Exhibit
24 52?

25 THE COURT: You may.

Osborn - Cross

1 BY MR. CARR:

2 Q. And again she says if you're not going to--if you and
3 your wife are not going to make the fourteen hundred dollar
4 donation to McKinley, make the adjustment on the attachment,
5 correct?

6 A. Yes.

7 Q. Do you recall, was the suggestion from Mr. Laurita that
8 both of you make a fourteen hundred dollar donation?

9 A. No, it was from Karen.

10 Q. I apologize. I thought in direct you had indicated
11 anything Karen told you regarding donations you believed
12 ultimately came from Jim, is that correct?

13 A. That's correct; yes.

14 Q. So the suggestion was two donations of fourteen hundred
15 dollars, correct?

16 A. Yes. Uh-huh (yes).

17 Q. And that's what was annotated on this attached
18 spreadsheet?

19 A. Yes.

20 Q. Have you ever seen the spreadsheet that Karen Hughes was
21 keeping?

22 A. Other than the one we're looking at, no.

23 Q. You didn't see the one that she was ultimately keeping
24 in her office?

25 A. Not that I'm aware of, no. I don't recall that.

Osborn - Cross

1 Q. And so are you aware that it was from the spreadsheet
2 that she was keeping that your bonus was calculated?

3 A. I wasn't aware of anything besides what we're looking at
4 right here.

5 Q. Do you recall whether you and your wife both made
6 fourteen hundred dollar contributions to McKinley?

7 A. Don't recall.

8 Q. Consequently, if Karen Hughes' spreadsheet reflected
9 that your wife did not make a donation, you would have no
10 reason to disagree with that?

11 A. That's correct.

12 Q. If I could please have Government Exhibit 2, page twelve
13 brought up.

14 MR. CARR: I'm going to return Government Exhibit
15 52 to the Court.

16 THE COURT: Thank you.

17 MR. CARR: And returning Defendant's A to the
18 Court.

19 BY MR. CARR:

20 Q. As it relates, Mr. Osborn, to those four payments for
21 Morrissey and I believe you said it seems likely that's
22 Morrissey for Attorney General?

23 A. Yes.

24 Q. If in--do you know whether Karen Hughes factored these
25 four contributions in to any payment to you?

Osborn - Cross

1 A. I assume she did.

2 Q. If the spreadsheet that she used to calculate the second
3 bonus did not include any annotation for you for Morrissey
4 you would have no reason to disagree with that would you?

5 A. I would not.

6 Q. If I could please have the entire bottom of the
7 statement highlighted or brought up? Mr. Osborn, the bank
8 statements that you testified about and that were introduced
9 appear to indicate that all of your income came from Mepco,
10 is that correct?

11 A. Nearly all, yes.

12 Q. More than ninety-eight percent?

13 A. I would say that's correct, yes.

14 Q. There appear to be a few small deposits?

15 A. Yes.

16 Q. This is your Cabela's credit card statement?

17 A. Yes.

18 Q. Given that ninety-eight percent of your money came from
19 Mepco, it is true then, is it not, that for instance the
20 bottom right-hand charge for Lowe's of Morgantown?

21 A. Yes, sir.

22 Q. That was ultimately--you used Mepco money for that,
23 correct?

24 A. I considered it my own money.

25 Q. I understand but that money came from Mepco?

Osborn - Cross

1 A. Yes.

2 Q. The next entry for Walmart?

3 A. Same thing.

4 Q. But the money ultimately came from Mepco?

5 A. Yes it did.

6 Q. And all of the money you received from Mepco, to include
7 the second bonus, was direct deposited into one account?

8 A. That's correct.

9 Q. And at some point you mentioned you got rid of that
10 account and got a new one?

11 A. That's correct.

12 Q. Did you also receive a wellness or a health bonus and an
13 anniversary bonus?

14 A. I don't recall the wellness bonus, but I did receive a
15 retention bonus. It was an annual retention bonus.

16 Q. And those were discretionary bonuses authorized by
17 Mr. Laurita?

18 A. Yes.

19 Q. You were aware that the bonuses were actually paid to
20 you in a few lump sum payments throughout the year?

21 A. Which ones are you referring to?

22 Q. Thank you. The second bonus.

23 A. Yes. It was not on a certain frequency. It was just
24 however it worked out for contributions.

25 Q. During the time period in which the second bonus program

Osborn - Redirect

1 as it's been referred to, was in existence, Jim Laurita
2 never indicated to you in any way, shape or form that there
3 could be anything wrong or unlawful with the program, is
4 that correct?

5 A. That's correct.

6 Q. And you certainly didn't indicate to him that there
7 could be anything wrong or unlawful with the program?

8 A. No, sir.

9 MR. CARR: May I have just one moment, Your Honor?

10 THE COURT: Yes.

11 (Pause)

12 MR. CARR: Nothing further Your Honor.

13 THE COURT: Is there redirect?

14 MR. BERNARD: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. BERNARD:

17 Q. Mr. Osborn, had you ever received any e-mails from
18 either the defendant or Ms. Hughes or anybody at Mepco
19 concerning how you spent money other than political
20 contributions?

21 A. No, sir.

22 Q. And I think you indicated that--Counsel showed you an
23 exhibit where Ms. Hughes was asking whether you intended to
24 make a contribution. Do you recall that?

25 A. Yes.

Osborn - Redirect

1 Q. Was there ever a time when you were instructed or
2 directed to make a contribution that you didn't, to your
3 knowledge?

4 A. No.

5 Q. And had you not done that--let's say you decided I am
6 not going to contribute to McKinley and there was fifteen
7 hundred dollars in your account, what would happen to that
8 money?

9 A. I felt like I would need to--

10 MR. CARR: Objection. Calls for speculation and
11 relevance.

12 THE COURT: Sustained.

13 BY MR. BERNARD:

14 Q. You indicated in cross that you believed your salary
15 payment was your money. Do you recall that?

16 A. Yes.

17 Q. What did you mean by that?

18 A. When I received my salary or a tonnage bonus, I felt
19 like that was my money. If it was not one of those things
20 or the retention bonus, as Mr. Carr suggested, I felt like
21 that was not my money.

22 Q. Okay. Did you feel there were strings attached to the
23 bonus, the second bonus?

24 A. Yes.

25 MR. CARR: Objection. Relevance.

Osborn - Redirect

1 MR. BERNARD: Your Honor, he's opened up with--

2 THE COURT: Overruled.

3 MR. BERNARD: --voluntariness. He's opened up this
4 door throughout the trial.

5 THE COURT: Yeah. Overruled.

6 BY MR. BERNARD:

7 Q. What was your answer?

8 A. Yes.

9 MR. BERNARD: Okay. Thank you. I have no further
10 questions.

11 THE COURT: Any recross?

12 MR. CARR: No, Your Honor.

13 THE COURT: Is the witness excused?

14 MR. BERNARD: He is excused, Your Honor, and I'll
15 defer to counsel whether he is subject to recall.

16 THE COURT: Okay. Is the witness subject to recall
17 by the defendant?

18 MR. CARR: No, Your Honor.

19 THE COURT: Thank you. Mr. Osborn, you're excused
20 as a witness and free to go. You may step down.

21 (Witness excused)

22 THE COURT: Ladies and Gentlemen, as soon as the
23 witness leaves the courtroom we'll take our mid-morning
24 recess. During the recess I would request that you not
25 discuss the case among yourselves. The case hasn't been

1 given to you for deliberation so you can talk about anything
2 else but not the case. Please leave your notebooks face
3 down on your chairs. We thank you for your attention and
4 patience and let's resume at ten-thirty. Please be prepared
5 to return to the courtroom to be in your chairs at
6 ten-thirty. Thank you. Court Security please leave them
7 out.

8 Now may I ask Government's table to move so that the
9 jurors can come through there. Thank you. Actually, why
10 don't the alternates just come through the door and go into
11 the jury box and come through. I think that's probably the
12 best way and why don't you return that way as well. Thank
13 you.

14 (Jury out at 10:15 a.m.)

15 THE COURT: Are there any matters to address before
16 we recess?

17 MR. DOUGLAS: No, Your Honor.

18 MR. CARR: No, Your Honor.

19 THE COURT: Thank you. Court stands in recess
20 until ten-thirty.

21 (Recess from 10:15 a.m., until 10:30 a.m.)

22 THE COURT: Thank you. Please be seated. We can
23 bring the jury in please. May the witness--or next witness,
24 I'm sorry. We finished with him, didn't we. Okay. Who's
25 the next witness?

1 MR. DOUGLAS: Rick Usery.

2 THE COURT: Are you bringing the jury in or is
3 somebody--

4 COURT SECURITY OFFICER: He's bringing them in,
5 ma'am.

6 THE COURT: All right. Mr. Usery, just wait back
7 there for a moment please until the jury comes in. Thank
8 you.

9 (Jury in 10:31 a.m.)

10 THE COURT: You can be seated, Ladies and
11 Gentlemen. Ladies and Gentlemen, I should tell you, all the
12 lawyers and the parties wanted to stand for you each time
13 you leave and you come back in. That's a very good protocol
14 but in our courtroom, because we're so small, we're smaller
15 than the ordinary District Courtroom and we're so cluttered
16 with everything for this case, I've asked them not to do
17 that so you must know that that's not their--if you've been
18 in juries before where you're expecting the lawyers to
19 stand, it's at my directive that they're not standing,
20 afraid they're going to knock things over or something's
21 going to happen so please understand that. All right.
22 Thank you.

23 The Government may resume with its next witness.

24 MR. DOUGLAS: United States calls Rick Usery.

25 THE COURT: Mr. Usery, if you'll approach the Clerk

Usery - Direct

1 standing in front of me in the front of the courtroom,
2 she'll administer the oath to you before you take the
3 witness stand.

4 RICK USERY, GOVERNMENT'S WITNESS, SWORN

5 THE CLERK: Thank you. You may have a seat in the
6 witness stand. The witness is Richard Usery, U-s-e-r-y.

7 THE COURT: Mr. Usery, if you'll speak in a loud,
8 clear voice into the microphone which you can move closer to
9 you and down as well to adjust to where you are in the seat.
10 Thank you.

11 DIRECT EXAMINATION

12 BY MR. DOUGLAS:

13 Q. Sir, please introduce yourself to the jury, including a
14 little bit about your background, education and work
15 experience.

16 A. Hi. My name is Richard Usery. I go by Rick. I am a
17 Mining Engineer. I was born in Colorado and have lived in
18 Morgantown for the past twelve years.

19 Q. How are you currently employed?

20 A. I am the Vice President of Surface Operation and Coal
21 Sales for Mepco LLC.

22 Q. Around when did you join Mepco?

23 A. It was November 2005.

24 Q. And in what position did you join Mepco?

25 A. I was the Technical Assistant to the President.

Usery - Direct

1 Q. Who was the President?

2 A. Mr. Laurita.

3 Q. Is he sitting in the courtroom here at the defense table
4 on my right?

5 A. Yes, sir.

6 Q. Who hired you into that position?

7 A. Mr. Laurita did.

8 Q. Now around the time of 2010 were you promoted to another
9 position?

10 A. Yes, sir.

11 Q. What position was that?

12 A. My current position as Vice President of Surface
13 Operations and Coal Sales.

14 Q. Who promoted you?

15 A. Mr. Laurita.

16 Q. Throughout your time at Mepco where has your office been
17 physically located?

18 A. In--in--in Morgantown at the office on Dents Run Road.

19 Q. Now at some point while you were working for the
20 defendant at Mepco, did you start making campaign
21 contributions?

22 A. Yes, sir.

23 Q. And how did that begin?

24 A. It began as part of--I first found out about it via an
25 e-mail that Mr. Laurita sent out.

Usery - Direct

1 Q. Was there a meeting that was being held by Mr. Laurita?

2 A. Yes there was but I was--I was not present at that
3 meeting as I was out of town.

4 Q. Okay. Did you ultimately meet with someone to learn
5 what you had missed?

6 A. Yes. I met with Karen Hughes after I returned back to
7 work.

8 Q. Did you learn just the general substance of what the
9 meeting was about?

10 A. Yes, the general--yes.

11 Q. What was your understanding?

12 A. My understanding was that we were going to provide
13 campaign contributions to different candidates and we would
14 be reimbursed for those contributions.

15 Q. Did you then have a separate meeting with the defendant?

16 A. Yes, I did.

17 Q. Why did you have a separate meeting with him?

18 A. I wanted to understand more fully what the process was
19 and I also wanted to express my--the fact that I was
20 uncomfortable doing that.

21 Q. What did you express to him with regard to your being
22 uncomfortable?

23 A. I--I told Mr. Laurita that I didn't like doing it
24 because in general I don't like giving money to politicians.

25 Q. At that time had you ever done it before?

Usery - Direct

1 A. No, sir.

2 Q. Had your spouse ever made a contribution before that
3 time?

4 A. No, sir.

5 Q. And you said that you wanted to get a better
6 understanding of why he wanted to do it. Did he give you a
7 better understanding of why he wanted to do it?

8 A. Yes, sir. He told me that it was all about access and
9 that when--we needed--when the company needed assistance for
10 permits or some other issue that may arise that we
11 could--whenever he went in to talk to one of the
12 Congressional representatives, that the first thing they did
13 was look at their roles to see who had contributed to
14 the--to the campaign.

15 Q. During that meeting with the defendant, did the
16 defendant tell you how you would know to which candidates to
17 contribute?

18 A. I don't recall that. I think in the initial meeting
19 with Mrs. Hughes, that's when she--she told me that--that we
20 would receive instructions to that.

21 Q. In that meeting you had with the defendant did he tell
22 you how the contributions would be funded?

23 A. That we would be reimbursed by the company.

24 Q. I want to talk a little bit about that conversation
25 specifically with regard to what you just said about the

Usery - Direct

1 reimbursements. During that meeting did the defendant tell
2 you how that reimbursement would be made?

3 A. No, sir.

4 Q. All right. Let's talk about the mechanics of how this
5 program worked. Was there someone who would communicate the
6 instructions to you about campaign contributions?

7 A. Yes. In most cases that was Mrs. Hughes.

8 Q. Okay. And what generally would those instructions
9 include?

10 A. They would include the amount to be submitted, to which
11 campaign and how to make the check out to.

12 Q. And was there a time that your spouse also made campaign
13 contributions?

14 A. Yes, sir.

15 Q. So how did you know whether your spouse is--

16 A. That would be--that would be included in the
17 instructions.

18 Q. Do you recall some of the candidates to whom you made
19 contributions under this program?

20 A. Ah, yes. Manchin, McKinley, Capito and other state and
21 federal candidates.

22 Q. How did you typically make these contributions you were
23 requested to make?

24 A. Via personal check.

25 Q. Okay. And what would you do with the check once it was

Usery - Direct

1 written?

2 A. Generally speaking I would give it to Mrs. Hughes.

3 Q. Do you recall learning whether anyone was keeping record
4 of the contributions versus how much the reimbursements
5 were?

6 A. Yes.

7 Q. What do you recall about that?

8 A. I recall that Mrs. Hughes kept those records.

9 Q. Do you recall whether Ms. Hughes ever sent you any of
10 those records?

11 A. I believe she did.

12 Q. Generally what was the gist of those types of records?

13 A. The gist was the amount and to who the--it was basically
14 a spreadsheet with the amount and who the--who the
15 contribution was to and what the reimbursement was.

16 Q. Let's talk a little bit about your pay. Generally, if
17 we were to look at your bank statement, what kind of
18 deposits would there be from Mepco? And we will look at
19 that in a minute.

20 A. Generally speaking there would be--we are paid every two
21 weeks and there would be two--normally two direct deposits
22 for base pay and then a monthly deposit for a production
23 bonus.

24 Q. And did that production bonus predate or preexist this
25 political contribution program?

Usery - Direct

1 A. Yes, sir.

2 Q. Okay. Did the defendant ever tell you or suggest what
3 to do with your salary?

4 A. No, sir.

5 Q. Did the defendant ever suggest what you should do with
6 your performance bonus?

7 A. No, sir.

8 Q. What other types of payments were there in addition to
9 salary payments and the tonnage bonus?

10 A. The only other type of payment would have been the
11 campaign reimbursement payment.

12 Q. And if I say the second bonus, do you understand what I
13 mean? Have you heard it called the second bonus?

14 A. I have heard it called that, yes, sir.

15 Q. Okay. Did the defendant suggest what you should do with
16 that second bonus?

17 A. That was the bonus that was to be used for the campaign
18 contributions.

19 Q. Did you attend any fundraisers during this program?

20 A. Yes, sir.

21 Q. Why?

22 A. Because that was part of the instructions that we
23 received.

24 MR. DOUGLAS: May I approach the witness, Your
25 Honor?

Usery - Direct

1 THE COURT: You may.

2 BY MR. DOUGLAS:

3 Q. I'm handing you what's been marked as Exhibit 14 and 15
4 for the Government. Could you take a look first at Exhibit
5 14 and just tell me what it is generally?

6 (No answer - witness looking at document)

7 BY MR. DOUGLAS:

8 Q. Mr. Usery, are these checks from your bank account,
9 written on your bank account?

10 A. Yes, sir, they are. They are checks written by me and
11 my wife.

12 Q. Okay. And do these checks relate to the contribution
13 program in that they are the contributions?

14 A. Yes, sir.

15 MR. DOUGLAS: Okay. We move to admit
16 Exhibit--Government Exhibit 14.

17 THE COURT: Is there any objection?

18 MR. CARR: No, Your Honor.

19 THE COURT: Government Exhibit 14 is admitted.

20 (Government Exhibit Number 14 admitted.)

21 BY MR. DOUGLAS:

22 Q. If we could bring up page one please. What are we
23 looking at on page one?

24 A. This is a check written to the McKinley campaign by my
25 wife.

Usery - Direct

1 Q. Why did your wife--did you direct your wife to write
2 this check?

3 A. Yes, I did.

4 Q. Why?

5 A. Because we followed the instructions as provided by
6 Mrs. Hughes.

7 Q. And ultimately did you have an understanding of where
8 Karen Hughes was getting her instruction, if you know?

9 A. My understanding is she was receiving her instruction
10 from Mr. Laurita.

11 Q. And how ultimately was this check funded?

12 A. By the second bonus or the campaign contribution bonus.

13 Q. If we take a look at the second page please. What are
14 we looking at on the second page?

15 A. This is a check written by myself to the McKinley
16 campaign.

17 Q. Why did you write that check?

18 A. For the same reason, as instructed, to provide to the
19 campaign.

20 Q. How was that check ultimately funded?

21 A. It was funded through the campaign reimbursement.

22 Q. And what I'm going to do is we're going to flip through
23 and show you each one of them and then I'm going to ask you
24 a general question about them so that we don't go through
25 each one. Is that okay?

Usery - Direct

1 A. Yes.

2 Q. All right. So let's bring up page three, take a quick
3 look at that. Okay. Just identify generally what it is.

4 A. A check to the McKinley campaign written--signed by my
5 wife.

6 Q. Okay. And let's look at the next one. Page four
7 please. What is this?

8 A. It's a check to the Capito campaign signed by myself.

9 Q. Page five please. What is this?

10 A. This is a check, another separate check to the McKinley
11 campaign signed by my wife.

12 Q. Page six. What is this?

13 A. This is a check to the McKinley campaign signed by
14 myself.

15 Q. Page seven please. What is page seven?

16 A. This is a check to the Manchin campaign signed by
17 myself.

18 Q. Page eight please. At the bottom. What is that?

19 A. This is a check to the Tomblin campaign signed by my
20 wife.

21 Q. Page nine. What is that?

22 A. This is a check to the Tomblin campaign signed by
23 myself.

24 Q. Page ten. What is on page ten?

25 A. Page ten is a check to the Snuffer campaign signed by

Usery - Direct

1 myself.

2 Q. Page eleven?

3 A. This is a check to the McKinley campaign signed by
4 myself.

5 Q. What is page twelve?

6 A. This is a check to the McKinley campaign signed by my
7 wife.

8 Q. What is page thirteen?

9 A. This is a check to the Capito campaign signed by myself.

10 Q. And finally page fourteen?

11 A. This is a check to the Capito campaign signed by my
12 wife.

13 Q. Now I'm going to ask you a couple questions with regard
14 to all of those checks. Why did you write or ask your wife
15 to write all of those checks we just looked at?

16 A. Upon receiving instructions provided by Mrs. Hughes.

17 Q. And what was your ultimate understanding of where those
18 instructions came from?

19 A. Those instructions came from--my understanding is they
20 came from Mr. Laurita.

21 Q. And what was the ultimate source of the funding for
22 those checks to your understanding?

23 A. It was company funds. Mepco funds.

24 Q. Thank you. Now I would like to ask you to look at
25 Government Exhibit 15 and just again tell us generally what

Usery - Direct

1 Exhibit 15 is?

2 A. It's copies of my bank records.

3 Q. And are these bank statements in specific?

4 A. Yes, sir, they are.

5 Q. And do they relate to that second bonus that you were
6 receiving?

7 A. Yes, sir.

8 MR. DOUGLAS: Okay. Move to admit Government
9 Exhibit 15.

10 THE COURT: Any objection?

11 MR. CARR: No, Your Honor.

12 THE COURT: Government Exhibit 15 is admitted.

13 (Government Exhibit Number 15 admitted.)

14 BY MR. DOUGLAS:

15 Q. If we could bring up page one please and first bring up
16 the top left corner. What is the date of the statement
17 depicted on page one?

18 A. March 10th, 2010.

19 Q. And then if we could bring up page three of the exhibit
20 and the deposits and if I could draw your attention to March
21 9. What is this March 9 deposit?

22 A. March 9 would be a deposit that was likely the initial
23 deposit for the campaign contribution program.

24 Q. Okay. Now we're going to jump to page nineteen please
25 and bring up the top left corner please. What is the date

Usery - Direct

1 of this statement?

2 A. April 10th, 2013.

3 Q. And then we're going to go to page three of that
4 statement which is page twenty-one of the exhibit and bring
5 up the deposits and if I could draw your attention to the
6 March 14th deposit of fourteen thousand five hundred and
7 eighty-seven dollars and fifty cents. What is that deposit?

8 A. That would also be a deposit for the campaign
9 contribution program.

10 Q. And without going through all the other deposits, if you
11 received a deposit that wasn't salary and wasn't a tonnage
12 bonus, what generally was it from Mepco?

13 A. It was a reimbursement--campaign reimbursement deposit.

14 Q. Did you make any contributions or have your wife make
15 any contributions during this entire time period we've just
16 been looking at that wasn't part of the program?

17 A. No, sir.

18 Q. At some point did you stop making political
19 contributions?

20 A. Yes, sir.

21 Q. Why?

22 A. Because the instructions were never provided and nor
23 were the funds.

24 Q. So without the instructions you didn't continue to make
25 political contributions?

Usery - Cross

1 A. That's correct.

2 Q. Would you have made any of these contributions if you
3 didn't believe the defendant was asking you to do so?

4 A. No I would not have.

5 Q. You already mentioned that the defendant hired you and
6 promoted you. Did you believe he had the right to demote
7 you or fire you, or the power?

8 A. Yes, sir.

9 Q. Since the program ended have you made any other
10 contributions?

11 A. No, sir.

12 MR. DOUGLAS: One moment, Your Honor.

13 (Pause)

14 MR. DOUGLAS: Nothing further. Should I retrieve
15 the exhibits?

16 THE COURT: You should.

17 MR. DOUGLAS: Thank you.

18 THE COURT: Thank you. Cross-examination?

19 MR. CARR: Yes, Your Honor.

20 CROSS EXAMINATION

21 BY MR. CARR:

22 Q. Sir, I apologize. Could you tell me again how to
23 pronounce your last name because I think I've been
24 mispronouncing it.

25 A. Usery.

Usery - Cross

1 Q. Usery.

2 A. Yes.

3 Q. Mr. Usery, you mentioned that during the initial few
4 weeks or the initial period of time that you expressed to
5 Jim that you were uncomfortable giving to politicians, is
6 that correct?

7 A. Yes, sir.

8 Q. But when you say that it was just that you generally
9 don't like giving money to politicians period, correct?

10 A. That's correct.

11 Q. It wasn't that you were--that you were concerned in any
12 way, shape or form with the unlawfulness of the program?

13 A. No, sir, I wasn't.

14 Q. And at no time during the time--we keep calling it the
15 program so I will continue, that the program existed, you
16 never communicated to Jim any concern about the lawfulness
17 of the program?

18 A. That's correct. No, sir, I didn't.

19 Q. And Jim never indicated to you any concerns about the
20 lawfulness of the program?

21 A. That's correct.

22 Q. Sir, do you also receive an anniversary and health or
23 wellness bonus every year?

24 A. That program has since ceased but I--at one time it did.

25 Q. It's no longer in existence but during the years 2010 to

Usery - Cross

1 2013?

2 A. That's possible. I don't remember the exact timing of
3 that.

4 Q. Sir, would it be correct from a review of your bank
5 records that your primary and almost exclusive source of
6 income was payments or compensation from Mepco?

7 A. That's correct.

8 Q. And the--all payments from Mepco, whether it be salary,
9 tonnage bonus, what we keep referring to as bonus two,
10 wellness bonus, anniversary bonus, if those occurred during
11 those years, all of those payments were treated the same way
12 financially in that they were direct deposited into your
13 designated account?

14 A. They were direct deposited into that account; yes, sir.

15 Q. At no time did you receive an envelope for the bonus two
16 program of cash or a separate check. It was always direct
17 deposited into your account?

18 A. Yes, sir.

19 Q. And actually that amount was grossed up or plussed up
20 just as your salary was, meaning that it--it included such
21 things as withholding tax, security security, et cetera, is
22 that correct?

23 A. That's correct.

24 Q. Is it also correct that when you--when there was a
25 suggestion made to you to make a donation, it wasn't

Usery - Cross

1 specified as to what account or even money to give. It was
2 just to please provide, if you want, the campaign donation?

3 A. I am not sure I understand the question regarding
4 account.

5 Q. I understand. You were just asked to provide a check,
6 is that correct?

7 A. That's correct.

8 Q. A donation?

9 A. That's correct.

10 Q. At no time did Mr. Laurita or Karen Hughes or anyone
11 else in the company state that it was mandatory or required
12 that you give a donation. Is that correct?

13 A. That's correct. No one stated that.

14 Q. Are you aware that records reflect that there were times
15 when you did not give donations that other members of the
16 executive team gave?

17 A. No I am not.

18 Q. If that happened, no one came to you and demanded that
19 you write a check?

20 A. That's correct.

21 Q. And no one ever told you that if asked deny why you are
22 getting a second bonus or what it is in relation to?

23 A. No one ever--no one ever stated that.

24 Q. And is that correct that no one ever did ask you why you
25 were getting the second bonus?

Usery - Redirect

1 A. I'm sorry. No one meaning?

2 Q. Anyone outside of the executive team?

3 A. No. No one asked me that.

4 Q. Or an independent accounting firm who might've been in
5 the office, simply no one asked you?

6 A. That's correct.

7 MR. CARR: May I have just a moment, Your Honor?

8 THE COURT: You may.

9 (Pause)

10 MR. CARR: Nothing further at this time, Your
11 Honor.

12 THE COURT: Is there any redirect?

13 MR. DOUGLAS: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. DOUGLAS:

16 Q. Mr. Usery, did you trust the defendant that the program
17 was lawful?

18 A. Yes, sir.

19 Q. Did you ever overcome your discomfort with making
20 campaign contributions?

21 A. No, sir.

22 Q. So why did you do it?

23 A. That's what was expected.

24 Q. What was your understanding of who expected you to do
25 it?

Usery - Redirect

1 A. Mr. Laurita did.

2 Q. Was he your boss?

3 A. Yes, sir.

4 Q. Do you know what the other executives were specifically
5 being asked to give to specific candidates?

6 A. At times I did because the e-mail instructions were
7 copied to those individuals.

8 Q. Did you always know?

9 A. Generally, whenever the--yes on the e-mail instructions.

10 Q. Is it--okay. Did General Power have access to your
11 personal bank account to see a second bonus?

12 A. I'm sorry?

13 Q. Did General Power have access to your bank statements to
14 see a second bonus deposit?

15 A. I'm not familiar with General Power.

16 Q. The parent company of Mepco?

17 A. Oh, I do not know that.

18 Q. All right. Do you happen to know that Mepco was audited
19 by an outside firm?

20 A. Yes. Yes, sir.

21 Q. Okay. Did that outside firm have access to your bank
22 accounts to see a second bonus?

23 MR. CARR: Objection.

24 THE COURT: I think the objection is this goes way
25 beyond the scope of the cross-examination and I sustain that

Usery - Redirect

1 objection and, Ladies and Gentlemen, any of those questions
2 about General Power are way beyond the scope of what can be
3 done on redirect and therefore I strike it.

4 MR. DOUGLAS: Nothing further, Your Honor.

5 MR. CARR: Thank you.

6 THE COURT: You're welcome. Is there anything
7 further?

8 MR. CARR: No, Your Honor.

9 THE COURT: All right. Then is the witness subject
10 to being called again by the Government?

11 MR. DOUGLAS: Not by the Government, Your Honor.

12 THE COURT: By the defendant?

13 MR. CARR: No, Your Honor.

14 THE COURT: All right. Then the witness may step
15 down. Mr. Usery, you're excused as a witness and free to
16 go. Thank you.

17 THE WITNESS: Thank you.

18 (Witness excused)

19 THE COURT: The Government may cause it's next
20 witness.

21 MR. DOUGLAS: The United States calls Suzanne
22 Crane.

23 THE COURT: All right. Suzanne Crane.

24 (Pause)

25 THE COURT: Ms. Crane, good morning. I am Judge

Crane - Direct

1 Keeley directing you to the front of the courtroom where the
2 Clerk is standing in the gray suit. She will administer the
3 oath to you before you take the witness stand. Please raise
4 your right hand.

5 SUZANNE CRANE, GOVERNMENT'S WITNESS, SWORN

6 THE CLERK: Thank you. Please have a seat in the
7 witness stand. The witness is Suzanne Crane, C-r-a-n-e.

8 DIRECT EXAMINATION

9 BY MR. DOUGLAS:

10 Q. Ms. Crane, could you please introduce yourself to the
11 jury?

12 A. I am Suzanne Crane.

13 Q. Could you tell them a little bit about your background,
14 where you live and what your current employment is?

15 A. I currently live in Bruceton Mills, West Virginia and I
16 am currently employed with AECOM and I work in safety and
17 permitting.

18 Q. What is AECOM?

19 A. It is a government contractor.

20 Q. Where were you employed prior to that company?

21 A. Mid-Atlantic Energy Services.

22 Q. And what was your position there?

23 A. Administrative Assistant.

24 Q. Who were you the Administrative Assistant for?

25 A. James Laurita, III, George McLaughlin, James Laurita,

Crane - Direct

1 II, Jim Laurita, Jr.

2 Q. Okay. Is Jim Laurita, Jr. sitting in the courtroom at
3 the defense table on my right?

4 A. Yes.

5 Q. Okay. When did you work for him at Mid-Atlantic?

6 A. It would be 2014 to 2016.

7 Q. Had you worked for him previously at Mepco?

8 A. Yes.

9 Q. Around what time frame was that?

10 A. 2011 to 2014.

11 Q. And what was your position there?

12 A. Executive Assistant.

13 Q. When you were hired on at Mepco where had you just been
14 working?

15 A. Human Resources at WVU Hospitals.

16 Q. Okay. And did you interview then for the Executive
17 Assistant position with the defendant?

18 A. Yes.

19 Q. Who was at the interview?

20 A. Kevin O'Dell and Mark Bunker.

21 Q. And the defendant?

22 A. Yes.

23 Q. Okay. And was there discussion at that interview about
24 your job responsibilities and what would be expected of you?

25 A. Yes.

Crane - Direct

1 Q. And what generally were those responsibilities?

2 A. Travel arrangements, managing the calendar, just
3 handling anything Mr. Laurita needed.

4 Q. And once you started the position did you learn that
5 there were additional expectations of you in your job
6 responsibilities?

7 A. Yes.

8 Q. How quickly?

9 A. Within a couple weeks.

10 Q. Okay. And what were those additional responsibilities?

11 A. Some political fundraising.

12 Q. Okay.

13 MR. DOUGLAS: May I approach the witness, Your
14 Honor?

15 THE COURT: You may.

16 BY MR. DOUGLAS:

17 Q. I'm handing you a stack of exhibits we hopefully will be
18 going through in order and we're starting with Exhibit 1-65.
19 Could you take a look at 1-65 and tell us generally what it
20 is?

21 A. It is an e-mail from Mr. Laurita to myself.

22 Q. In general could you describe, if there's an attachment
23 and what it is?

24 A. It is an invitation.

25 Q. Okay. Is it in regards to a political fundraiser?

Crane - Direct

1 A. Yes.

2 Q. All right. And does this relate to those additional
3 responsibilities we were just discussing about political
4 fundraisers?

5 A. Yes.

6 MR. DOUGLAS: Okay. We move to admit 1-65.

7 THE COURT: Is there any objection?

8 MR. CARR: No, Your Honor.

9 THE COURT: Government Exhibit 1-65 is admitted.

10 (Government Exhibit 1-65 admitted.)

11 BY MR. DOUGLAS:

12 Q. If we could first just bring up the first page and zoom
13 in please on just the top. Could you tell us what the date
14 is of this e-mail from the defendant to you?

15 A. August 15th, 2011.

16 Q. Around when had you started at Mepco?

17 A. Sometime in August before this.

18 Q. In that same month?

19 A. Yes.

20 Q. Okay. And if we could jump to the second page. Now you
21 can tell us what this fundraiser was for.

22 A. It was for United States Congressman Jason Altmire.

23 Q. Did you have any responsibilities with regard to this
24 fundraiser?

25 A. I believe I was just asked to create the invitation,

Crane - Direct

1 possibly set up a tent, call.

2 Q. And where was this fundraiser--where did the fundraiser
3 take place?

4 A. At his residence.

5 Q. Okay. Was this part of your introduction to this
6 political involvement and these political responsibilities
7 you would have?

8 A. Yes.

9 Q. Okay. Now at some point did these political
10 responsibilities include the executives making campaign
11 contributions?

12 A. Yes.

13 Q. What generally was--were your responsibilities in that
14 regard?

15 A. I would send the invitation to the executive team and
16 say this is the amount of money you need to contribute and
17 collect the checks.

18 Q. And where would you be getting your instruction about,
19 you know, which candidates and what amount?

20 A. Mr. Laurita.

21 Q. As part of that program were the spouses of the
22 executives also requested to contribute?

23 A. Yes.

24 Q. And is that something that you would communicate on to
25 the group?

Crane - Direct

1 A. Yes.

2 Q. Where would you get that instruction that spouses should
3 also contribute?

4 A. Mr. Laurita.

5 Q. Did you have any knowledge as to how these contributions
6 were being funded, the executive contributions?

7 A. No.

8 Q. So you didn't know whether they were paying for it or
9 the company was paying for it?

10 MR. CARR: Objection. Asked and answered. Calls
11 for speculation. Witness has said she doesn't know.

12 THE COURT: I'm not sure I heard the question
13 specifically directed to her that way. If you rephrase, I
14 will allow it.

15 MR. DOUGLAS: I'll just move on, Your Honor.

16 THE COURT: Okay.

17 BY MR. DOUGLAS:

18 Q. Do you recall some of the candidates that were part of
19 the program being asked to contribute to--the executives
20 contributing to them?

21 A. Yes.

22 Q. And could you name some of them please?

23 A. Capito. Altmire.

24 Q. Okay. That's okay. That's okay. Let's take a look
25 then at some other exhibits. You had already indicated

Crane - Direct

1 that--actually let's just look at the exhibit, 1-109 please.

2 What is 1-109?

3 A. It is an e-mail from Mr. Laurita to myself.

4 Q. Okay. And is this an example of an e-mail where he's
5 telling you the instructions to pass along to the group?

6 A. Yes.

7 MR. DOUGLAS: Okay. We would move to admit 1-109.

8 THE COURT: Is there any objection?

9 MR. CARR: No, Your Honor.

10 THE COURT: 1-109 is admitted.

11 (Government Exhibit 1-109 admitted.)

12 BY MR. DOUGLAS:

13 Q. If we could bring up the first page please and zoom in
14 on the bottom half. If you could direct your attention to
15 the bottom e-mail, the one that's dated March 6th, 2013 at
16 8:33 a.m. If you could read the second and the third
17 sentence, the one starting with also.

18 A. Also, we're going to talk about officer contributions.
19 What contribution amount were you thinking?

20 Q. And is this you asking the defendant that question?

21 A. Yes.

22 Q. Okay. And then if you could look at the response e-mail
23 of the same date and read the sentence that starts with ask.

24 A. I'm sorry, repeat that.

25 Q. The e-mail right above that in the chain.

Crane - Direct

1 A. Oh.

2 Q. Yeah, if you start looking at the screen please.

3 A. Ask the officers to contribute twenty-five hundred by
4 here two--by two here too.

5 Q. Okay. Let's take a look at 1-110 please. What is
6 1-110?

7 A. It is an e-mail from Mr. Laurita to myself.

8 Q. Is it again with regard to the contribution program?

9 A. Yes.

10 MR. DOUGLAS: We move to admit 1-110.

11 THE COURT: Is there any objection?

12 MR. CARR: No, Your Honor.

13 THE COURT: Government Exhibit 1-110 is admitted.

14 (Government Exhibit 1-110 admitted.)

15 BY MR. DOUGLAS:

16 Q. And then if we could bring up page--on your computer
17 monitor up there and bring up the top half, enlarge the top
18 half please. And could you read your e-mail dated March 6,
19 2013 to him, the defendant?

20 A. The Capito fundraiser to be held April 8th, you had
21 mentioned you would like the officers to make a
22 contribution. Let me know what amount.

23 Q. And then at the top of that exhibit, could you read the
24 defendant's response e-mail to you?

25 A. The maximum allowable is twenty-five hundred per person.

Crane - Direct

1 I'd like for them and their spouses each to contribute
2 twenty-five hundred.

3 Q. Let's take a look at 1-112 please. What is 1-112?

4 A. It is an e-mail from Mr. Laurita to myself.

5 Q. Does it concern the political contribution program?

6 A. Yes.

7 MR. DOUGLAS: We move to admit 1-112.

8 THE COURT: Any objection?

9 MR. CARR: No, Your Honor.

10 THE COURT: 1-112 is admitted.

11 (Government Exhibit 1-112 admitted.)

12 BY MR. DOUGLAS:

13 Q. If we could bring up just the top e-mail please. Could
14 you read that e-mail from the defendant to you?

15 A. We will need to have the officers and spouses give
16 twenty-six hundred each rather than twenty-five hundred and
17 I think the invitations are fine as they are. If someone
18 wants to give less, they are not going to turn them away.

19 Q. And I want to first of all ask you, did you have any
20 understanding of why there was an increase from twenty-five
21 hundred to twenty-six hundred?

22 A. No.

23 Q. Okay. Do you have any understanding of the individual
24 contribution limits?

25 A. No.

Crane - Direct

1 Q. Okay. And then with regard to this comment about
2 they're not going to turn them away, let's look at the other
3 part of this e-mail please. And do you see how you're
4 referencing a McKinley contribution and a McKinley
5 non-contribution?

6 A. Yes.

7 Q. Is that what you were referring to when you said--

8 MR. CARR: Objection. Leading.

9 THE COURT: Sustained.

10 BY MR. DOUGLAS:

11 Q. Okay. Let's bring up 1-115 please. I'm sorry. If you
12 could take a look at it first. What is 1-115?

13 A. It is an e-mail from myself to Mr. Laurita.

14 Q. Is it in regard to the campaign program?

15 A. Yes.

16 MR. DOUGLAS: Move to admit 1-115.

17 THE COURT: I'm sorry. Admitted.

18 (Government Exhibit 1-115 admitted.)

19 BY MR. DOUGLAS:

20 Q. If we could bring up 1-115 please? And could you read
21 your e-mail to the defendant?

22 A. Jim, I will cut out the contribution section and send
23 them another invitation for the few that are
24 non-contributors. I will change the officer request to
25 twenty-six hundred.

Crane - Direct

1 Q. Was there ever a time that you changed the amount on
2 your own accord?

3 A. No.

4 Q. If you changed an amount, why were you changing an
5 amount?

6 A. I would only change it if he told me to change it.

7 Q. Okay. Please take a look at 1-134. What is 1-134?

8 A. It is an e-mail from myself to Mr. Laurita.

9 Q. Is this in regard to political fundraising at Mepco?

10 A. Yes.

11 MR. DOUGLAS: We move to admit 1-134.

12 THE COURT: Any objection?

13 MR. CARR: No, Your Honor.

14 THE COURT: 1-134 is admitted.

15 (Government Exhibit 1-134 admitted.)

16 BY MR. DOUGLAS:

17 Q. If we could bring up 1-134 and start with the bottom
18 e-mail. Could you read the defendant's e-mail to you with
19 the subject Capito?

20 A. Suzanne, I will be bringing in two twenty-six hundred
21 dollar checks from Becky and I tomorrow morning. How about
22 apologizing me to the Congresswoman and finding out what we
23 raised in total for the event.

24 Q. Okay. And if we can take a look at your response? If
25 you could read your response please?

Crane - Direct

1 A. It will end up around a hundred and ten thousand from
2 the Capito event.

3 Q. Do you recall whether this was an event that the
4 defendant was hosting?

5 A. I do not.

6 Q. Okay. Do you call him ever hosting a Capito event?

7 A. Yes.

8 Q. Now in addition to this sort of communication role
9 between you and the group and you and some campaigns, were
10 you also collecting the contributions from the executives?

11 A. Sometimes.

12 Q. And how would that generally work?

13 A. Generally I would send them an e-mail or give them a
14 form to fill out requesting contribution for the event and
15 have them drop it off to me or I would pick it up.

16 Q. Once you received either a check or a credit card form,
17 what would you do with it?

18 A. I would track it on a spreadsheet.

19 Q. What would you do with the actual contribution, the
20 check or the credit card form?

21 A. I would just keep it till I needed to meet with the
22 financial coordinator for the event and hand it off to them.

23 Q. Okay. So you started to mention that you would also
24 keep a record. What type of record would you keep?

25 A. Just an Excel spreadsheet.

Crane - Direct

1 Q. Okay. Could you please take a look at Government
2 Exhibits 44 and 56? What are those two exhibits?

3 A. Capito and McKinley contribution spreadsheet.

4 Q. Is that what you were just referring to, examples of
5 what you were referring to?

6 A. Yes.

7 Q. Okay. And during the program were you regularly keeping
8 certain records like this?

9 A. Yes.

10 MR. DOUGLAS: Okay. Move to admit Government's
11 Exhibit 44 and 56.

12 THE COURT: Is there any objection to the admission
13 of these two exhibits?

14 MR. CARR: Your Honor, may I have a moment?

15 THE COURT: Yes.

16 (Pause)

17 MR. CARR: No objection, Your Honor.

18 THE COURT: All right. Government Exhibits
19 144--1-44 and 1-56 are admitted.

20 MR. DOUGLAS: Your Honor, these are actually just
21 44 and 56.

22 THE COURT: Oh, I'm sorry. Government Exhibits 44
23 and 56 are admitted.

24 (Government Exhibit Number 44 and 56 admitted.)

25 BY MR. DOUGLAS:

Crane - Direct

1 Q. All right. If we could bring up Government Exhibit 44
2 please and zoom in on that spreadsheet? Actually if you
3 could just zoom in on the first two columns on the left. So
4 what type of information were you keeping here in these two
5 columns of this spreadsheet?

6 A. The contributor and the amount they contributed.

7 Q. Okay. And if we could look at--zoom in on the title of
8 the spreadsheet please. And who was this for, which
9 candidate?

10 A. Shelley Capito.

11 Q. Okay. Why were you keeping this spreadsheet?

12 A. So we would know who all has contributed.

13 Q. Would you share it with someone?

14 A. Yes.

15 Q. Who would you share it with?

16 A. Mr. Laurita.

17 Q. Did you just make it up on your own or did he ask you to
18 make the spreadsheets?

19 A. He asked me.

20 Q. Okay. Let's look at Government Exhibit 56. If we could
21 just start with the title this time. Who is this
22 spreadsheet for, which candidate?

23 A. McKinley.

24 Q. Does it generally include the same information,
25 executives and amounts and method of payment?

Crane - Direct

1 A. Yes.

2 Q. Why were you keeping this spreadsheet?

3 A. So we could keep track of contributions.

4 Q. And at whose direction again were you keeping this
5 spreadsheet?

6 A. Mr. Laurita.

7 Q. Moving on from records, did you also have any
8 responsibilities with regard to drafting of fundraiser
9 invitations or contribution forms?

10 A. Yes.

11 Q. What generally were your responsibilities in that
12 regard?

13 A. The invitation.

14 Q. Okay. And at whose direction were you drafting these
15 documents?

16 A. Mr. Laurita.

17 Q. Would the defendant ever make any suggestions regarding
18 an invitation and what it should say?

19 A. Sometimes.

20 Q. Okay. If we could take a look at Exhibits--or if you
21 could take a look at Exhibits 1-72 and 1-73 please. What
22 are those two exhibits generally?

23 A. Example of an invitation.

24 Q. Are these e-mails?

25 A. Yes.

Crane - Direct

1 Q. Okay. Are they e-mails from the defendant to you?

2 A. Yes.

3 Q. With regard to drafting invitations?

4 A. Yes.

5 MR. DOUGLAS: Okay. We move to admit Exhibits 1-72
6 and 1-73.

7 THE COURT: Any objection?

8 MR. CARR: May I have just a moment, Your Honor?

9 THE COURT: Yes.

10 (Pause)

11 MR. CARR: No, Your Honor.

12 THE COURT: All right. Government Exhibits 1-72
13 and 1-73 are admitted.

14 (Government Exhibits 1-72 and 1-73 admitted.)

15 BY MR. DOUGLAS:

16 Q. Let's bring up 1-72 please and if we could just bring up
17 the top e-mail. Could you read the first sentence of that
18 e-mail please?

19 A. Here is an example e-mail format for a fundraiser we may
20 use in the future. I like how they use an example they are
21 facing as a means to attract interest and potential
22 contributors.

23 Q. Okay. If we could back out of that please and if we
24 could go to the second page of that exhibit. Is this the
25 candidate and the invitation he was referring to?

Crane - Direct

1 A. Yes.

2 Q. Let's bring up 1-73 please. If we could just bring up
3 the top part of the e-mail. Can you read the second
4 sentence for us that starts with I would also like?

5 A. I would also like to include the following message
6 included for invites sent via e-mail. Please feel free to
7 polish it up where you think best.

8 Q. So these are his suggestions with regard to an
9 invitation?

10 A. Yes.

11 Q. And is this for Senator Manchin?

12 A. Yes.

13 Q. Okay. Please take a look at the paper copy of 1-81 and
14 you can take that down. What is 1-81?

15 A. A sample invitation.

16 Q. First off is it an e-mail?

17 A. Yes.

18 Q. And is it sending you a sample invitation, particularly
19 the defendant is sending you a sample invitation?

20 A. Yes.

21 MR. DOUGLAS: We move to admit 1-81.

22 THE COURT: Is there any objection?

23 MR. CARR: I apologize, Your Honor, if I may have
24 just a moment.

25 (Pause)

Crane - Direct

1 MR. CARR: No objection, Your Honor.

2 THE COURT: All right. Government Exhibit 1-81 is
3 admitted.

4 (Government Exhibit 1-81 admitted.)

5 BY MR. DOUGLAS:

6 Q. Please bring up 1-81 and just zoom in on the top e-mail
7 alone. Is this an e-mail from the defendant to you?

8 A. Yes.

9 Q. Could you read what he said to you?

10 A. Attached is a sample invitation that Stephanie may be
11 using that can be modified for our use.

12 Q. Is this in regard to Governor Tomblin?

13 A. Yes.

14 Q. Could we bring up the invitation that's attached, which
15 is page three of the exhibit? Is this that example
16 invitation?

17 A. Yes.

18 Q. And did that happen sometimes that a campaign would send
19 along invitations if there was going to be a fundraiser that
20 would be sponsored by the defendant?

21 A. Yes.

22 Q. If we could zoom in on the bottom language here right
23 below the address that's listed. Could you read that
24 sentence that starts with under West Virginia state law?

25 A. Under West Virginia state law, no person may make any

Crane - Direct

1 contribution except from his, her, or its own funds, unless
2 such person discloses in writing to the person required to
3 report the name, residence, mailing address, major business
4 affiliation, and occupation of the person which furnished
5 the funds to the contributor.

6 Q. Take that down please. I promise not to ask you to read
7 that again but I am going to ask you about that sentence
8 again. Let's bring up 1-82 please and if you could look at
9 1-82, the witness. What is 1-82?

10 A. An e-mail from myself to Mr. Laurita.

11 Q. Is this in regard to further drafts of that Tomblin
12 invitation or your first draft?

13 A. Yes.

14 MR. DOUGLAS: We move to admit 1-82.

15 THE COURT: Any objection?

16 MR. CARR: No, Your Honor.

17 THE COURT: Government Exhibit 1-82 is admitted.

18 (Government Exhibit 1-82 admitted.)

19 BY MR. DOUGLAS:

20 Q. If we can bring up 1-82 and if we could zoom in on just
21 the top e-mail and if you could read just the first sentence
22 of the second paragraph I drafted?

23 A. I drafted an invitation and donation form, attached.

24 Q. Okay. Now let's look at what you drafted. First of all
25 this is page two. Is this the invitation?

Crane - Direct

1 A. Yes.

2 Q. And then page three. Is this the contribution form for
3 those that would be contributing?

4 A. Yes.

5 Q. If you could bring up the language at the bottom of
6 that. Do you see how the under West Virginia state law
7 sentence is still there?

8 A. Yes.

9 Q. Okay. If you could take a look at the paper copy of
10 1-84. What is 1-84?

11 A. An e-mail from myself to Mr. Laurita.

12 Q. Is it further in regard to this Tomblin invitation
13 you're working on?

14 A. Yes.

15 MR. DOUGLAS: We move to admit 1-84.

16 THE COURT: Any objection?

17 MR. CARR: No, Your Honor.

18 THE COURT: Government Exhibit 1-84 is admitted.

19 (Government Exhibit 1-84 admitted.)

20 BY MR. DOUGLAS:

21 Q. Let's just go straight to the invitation. Did you
22 e-mail this invitation to the defendant?

23 A. Yes.

24 Q. Okay. And if we could bring up the bottom language. Do
25 you see how the under West Virginia state law sentence is no

Crane - Direct

1 longer there?

2 A. Yes.

3 Q. Do you know why it's no longer there?

4 A. I do not.

5 Q. Did the defendant ever ask you about why it wasn't there
6 any more?

7 A. No.

8 Q. Take a look at the paper copy of 1-89, the last one with
9 regard to this Tomblin invitation. Is 1-89 another e-mail
10 from you to the defendant including a version of the Tomblin
11 invitation?

12 A. Yes.

13 Q. If you could look at what is page four of that exhibit.

14 MR. DOUGLAS: If we could move to admit 1-89.

15 THE COURT: Is there any objection to the admission
16 of 1-89?

17 MR. CARR: No, Your Honor.

18 THE COURT: The Court admits 1-89.

19 (Government Exhibit 1-89 admitted.)

20 BY MR. DOUGLAS:

21 Q. Now if we can bring up and go straight to page four
22 please and bring up the language at the bottom. This
23 invitation doesn't include the under state law language
24 either?

25 A. No.

Crane - Direct

1 Q. Okay. And if you go back to the e-mail, page one please
2 and bring up just the top half. Is this an e-mail from you
3 to the defendant?

4 A. Yes.

5 Q. Do you see where you say I will get this out today?

6 A. Yes.

7 Q. Does that mean this was the final invitation, to the
8 best of your knowledge?

9 A. Yes.

10 Q. Did your drafting of invitations also include drafting
11 of federal invitations?

12 A. I do not recall.

13 Q. Okay. Let's take a look at 1-95. Do you recognize 1-95
14 as an e-mail with another invitation from you to the
15 defendant?

16 A. Yes.

17 MR. DOUGLAS: We move to admit 1-95.

18 THE COURT: Any objection?

19 MR. CARR: No, Your Honor.

20 THE COURT: Court admits Government Exhibit 1-95.

21 (Government Exhibit 1-95 admitted.)

22 BY MR. DOUGLAS:

23 Q. Let's look at the e-mail, just the top half please. If
24 you could read the first two sentences of your e-mail to the
25 defendant?

Crane - Direct

1 A. I made a new invitation that will work better for us.
2 Please review the e-mail message and the attached
3 invitation.

4 Q. Let's look at the invitation. Let's bring up 1-111.
5 Or take a look at 1-111. What is 1-111?

6 A. An e-mail from myself to Mr. Laurita.

7 Q. Is it--including the attachments, is it invitations?

8 A. Yes.

9 MR. DOUGLAS: We move to admit 1-111.

10 THE COURT: Any objection?

11 MR. CARR: No, Your Honor.

12 THE COURT: Court admits 1-111.

13 (Government Exhibit 1-111 admitted.)

14 BY MR. DOUGLAS:

15 Q. Could we take a look at the invitation please? Which
16 candidate was this invitation for?

17 A. McKinley.

18 Q. And was the defendant one of the hosts?

19 A. Yes.

20 Q. And if we bring up the bottom language of that
21 invitation? Right there. That's fine. Do you see the
22 sentence that starts with the maximum allowable?

23 A. Yes.

24 Q. Could you read it please?

25 A. The maximum allowable contribution for the primary

Crane - Direct

1 election is twenty-six hundred per person.

2 Q. And the last invitation we'll look at, if you could look
3 at 1-85. What is 1-85?

4 A. An e-mail from Mr. Laurita to myself.

5 Q. Does it include as an attachment a fundraiser
6 invitation?

7 A. Yes.

8 MR. DOUGLAS: We move to admit 1-85.

9 THE COURT: Any objection?

10 MR. CARR: No, Your Honor.

11 THE COURT: The Court admits Government Exhibit
12 1-85.

13 (Government Exhibit 1-85 admitted.)

14 BY MR. DOUGLAS:

15 Q. If we could bring up the bottom e-mail, part of what was
16 forwarded to you. Right there. Did you know Jaime Earl who
17 sent that one?

18 A. No.

19 Q. This is being forwarded to you ultimately by the
20 defendant?

21 A. Yes.

22 Q. And could you read what the defendant says to you in the
23 e-mail?

24 A. We need to mail this invitation out as well. Can you
25 look for the last Critz invitation list and send it to me or

Crane - Direct

1 we can possibly use the Tomblin list.

2 Q. Okay. Now in addition to fundraiser invitations and the
3 other responsibilities you've talked about, did you have any
4 responsibilities with regard to the defendant making his own
5 personal political contributions?

6 A. Sometimes.

7 Q. What would that involvement have been?

8 A. Mailing out a contribution.

9 Q. Okay. Let's take a look at 1-99. Tell us what 1-99 is
10 please.

11 A. An e-mail from Mr. Laurita to myself.

12 Q. Okay. And is this in regard to one of his personal
13 contributions he's asking you to send out?

14 A. Yes.

15 MR. DOUGLAS: We move to admit 1-99.

16 THE COURT: Any objection?

17 MR. CARR: No, your Honor.

18 THE COURT: Court admits Government Exhibit 1-99.

19 (Government Exhibit 1-99 admitted.)

20 BY MR. DOUGLAS:

21 Q. If you could bring up just the top e-mail please. Could
22 you read the defendant's e-mail to you?

23 A. I will leave a check on your desk for McConnell. Please
24 send it to the designated address on the attached
25 invitation. Also can you send me the latest donation

Crane - Direct

1 summary after you have recorded this check.

2 Q. Okay. Did you keep some type of donation summary of his
3 donations?

4 A. Yes.

5 Q. Please look at the paper copy of 55--Exhibit 55. What
6 is Exhibit 55?

7 A. It's an Excel spreadsheet of contributions made by
8 Mr. Laurita.

9 Q. Is this that donation summary he was referencing in the
10 last e-mail?

11 A. Yes.

12 MR. DOUGLAS: We move to admit Government Exhibit
13 55.

14 THE COURT: Any objection?

15 MR. CARR: No, Your Honor.

16 THE COURT: Court admits Government Exhibit 55.

17 (Government Exhibit 55 admitted.)

18 BY MR. DOUGLAS:

19 Q. If we bring up page one and just enlarge the top half.
20 Do you see how this starts with the date--a date in 2009?

21 A. Yes.

22 Q. But you didn't start at Mepco until 2011 I think you
23 testified. How did you get that information from the
24 earlier years?

25 A. He gave it to me.

Crane - Direct

1 Q. How did you get any of this information even for
2 contributions that were made while you were employed by him?

3 A. He provided me the information.

4 Q. What about like when you sent out that Mitch McConnell
5 donation for him, would you add that to this spreadsheet?

6 A. Yes.

7 Q. Did you have any idea--did he ever tell--did the
8 defendant ever tell you why he wanted you to keep this
9 spreadsheet?

10 A. No.

11 Q. Did you have any understanding of why he wanted you to
12 keep this spreadsheet?

13 A. No.

14 Q. Okay. Were there any special times of years that he was
15 asking for the spreadsheet?

16 A. No.

17 Q. And would he sometimes make additions to the spreadsheet
18 himself or make suggestions?

19 A. Yes.

20 Q. If you could look at 1-113 and tell us what 1-113 is?

21 A. It is an e-mail from Mr. Laurita to myself.

22 Q. And does it attach a version of the spreadsheet we just
23 looked at with some additions from the defendant?

24 A. Yes.

25 MR. DOUGLAS: We move to admit 1-113.

Crane - Direct

1 THE COURT: Any objection?

2 MR. CARR: No, your Honor.

3 THE COURT: Government Exhibit 1-113 is admitted.

4 (Government Exhibit 1-113 admitted.)

5 BY MR. DOUGLAS:

6 Q. If we could bring up just the top e-mail please. Could
7 you read the defendant's e-mail to you?

8 A. I inserted some subtotals in my page that I want you to
9 continue to carry. In other words, insert lines for each
10 donation and it should continue to carry the total.

11 Q. Okay. If we could bring up page six please. Had you
12 been adding the contributions made in 2013 that are listed
13 at the bottom of that spreadsheet?

14 A. Yes.

15 Q. Does that include to McKinley for Congress in March of
16 13?

17 A. Yes.

18 Q. So was the defendant often himself also making personal
19 contributions to the same campaigns that the executives were
20 making into?

21 MR. CARR: Objection.

22 BY MR. DOUGLAS:

23 Q. To your knowledge?

24 THE COURT: Yes, I'll sustain the objection unless
25 it's rephrased.

Crane - Direct

1 BY MR. DOUGLAS:

2 Q. Did--do you have knowledge as to whether the defendant
3 made contributions to the same campaigns as the executives?

4 A. Sometimes.

5 Q. Okay. Finally I would like you to take a look at what's
6 been marked as Government Exhibit 18-8 and first I want to
7 ask you, during your time that you worked for the defendant
8 did you have the opportunity to see his signature from time
9 to time?

10 A. Yes.

11 Q. How regularly would you have seen his signature? Would
12 you see his signature on a weekly basis?

13 A. Yes.

14 Q. Okay. And did you obtain some type of familiarity with
15 what his signature looks like?

16 A. Yes.

17 Q. Okay. Can you look at the signature on that document of
18 18-8 and tell us whose signature you believe that is?

19 MR. CARR: Objection, Your Honor. The witness is
20 not a handwriting expert.

21 THE COURT: That's true. Sustain the objection.

22 MR. DOUGLAS: Okay.

23 THE COURT: If you can lay a better foundation.

24 MR. DOUGLAS: All right.

25 BY MR. DOUGLAS:

Crane - Direct

1 Q. Did you work for the defendant for at least three years
2 at Mepco?

3 A. Yes.

4 Q. And then did you work for him an additional two years
5 when you went to Mid-Atlantic?

6 A. Yes.

7 MR. CARR: Your Honor, may I have a moment please?

8 THE COURT: Yes.

9 (Pause)

10 MR. CARR: Thank you, Your Honor.

11 THE COURT: All right.

12 MR. DOUGLAS: There's no need to pursue it any
13 further, Your Honor.

14 THE COURT: Okay.

15 MR. DOUGLAS: One moment, Your Honor.

16 (Pause)

17 MR. DOUGLAS: Nothing further. May I retrieve--

18 THE COURT: Are you admitting 18-8 or is that--

19 MR. DOUGLAS: No, Your Honor.

20 THE COURT: Okay. Thank you.

21 MR. DOUGLAS: I'll retrieve the exhibits, Your
22 Honor.

23 THE COURT: Thank you. Cross-examination?

24 MR. CARR: Thank you, Your Honor.

25 CROSS EXAMINATION

Crane - Cross

1 BY MR. CARR:

2 Q. Ms. Crane, as Jim's Executive Assistant, was that the
3 correct term?

4 A. Yes.

5 Q. You were, I know this is a vague term, but fairly close
6 to him?

7 A. Yes.

8 Q. And you got to be exposed to certain personal
9 information that the other executives or the standard person
10 within the company didn't know, didn't have access to?

11 A. Yes.

12 Q. Is that correct?

13 A. Yes.

14 THE COURT: All right. You need to speak into the
15 microphone, Ms. Crane, so that the jury can hear your
16 answers. Thank you.

17 BY MR. CARR:

18 Q. Is it accurate though that you did not know the salaries
19 of the executives?

20 A. I did not.

21 Q. And so when you were asked that you did not know about
22 the--what's been referred to in the courtroom as the bonus
23 two program, you didn't know anything about the compensation
24 for the executives?

25 A. No.

Crane - Cross

1 Q. And you didn't know anything about Jim's compensation?

2 A. No.

3 Q. If you recall there was an e-mail that you reviewed in
4 which Jim said we need to change the maximum from
5 twenty-five hundred to twenty-six hundred on the flier. Do
6 you remember that e-mail?

7 A. Yes.

8 Q. Jim told you to do that because on the first flier the
9 maximum personal contribution was incorrect, is that right?

10 A. Correct.

11 Q. There was also discussion of the Capito fundraiser and
12 total, which I think was a hundred and ten thousand dollars,
13 if I'm not mistaken, from the fundraiser. Do you recall the
14 discussion?

15 A. I do not.

16 Q. It was Government Exhibit 115.

17 MR. CARR: Retrieving Government Exhibit 134. May
18 I approach, Your Honor?

19 THE COURT: Yes. 134?

20 MR. CARR: 134, Your Honor.

21 THE COURT: Okay.

22 BY MR. CARR:

23 Q. That is the e-mail in which you tell Jim that they will
24 end up around a hundred and ten thousand dollars from the
25 Capito event?

Crane - Cross

1 A. Yes.

2 MR. CARR: Retrieving Government Exhibit 134.

3 BY MR. CARR:

4 Q. That was a very large Capito fundraiser, is that
5 correct?

6 A. Yes.

7 Q. And you were aware of the invitation list to it?

8 A. Somewhat.

9 Q. I'm not going to ask you who all was on it but it was--a
10 lot of different companies came and participated; it was not
11 solely Mepco or Mepco employees, correct?

12 A. I cannot remember.

13 Q. You mentioned that there were times when you actually
14 gave the checks to the people from the campaign; they'd stop
15 by the office and you'd have an envelope and give them the
16 checks?

17 A. Yes.

18 Q. You somewhat frequently interacted with the individuals
19 from the campaigns, did you not?

20 A. Yes.

21 Q. The people in charge of fundraising?

22 A. Yes.

23 Q. And is it not accurate that they'd talk--I shouldn't use
24 double negatives like that. I apologize. It's accurate, is
25 it not, that the campaigns talk in terms of we will get ten

Crane - Cross

1 thousand dollars from Mepco? We will get--you know, we will
2 stop by and pick up the twelve thousand dollars from Arch
3 Coal. They talk like that, don't they?

4 A. Yes.

5 Q. And they'd prefer, your perception is, to stop by the
6 office and pick that up all at once?

7 A. Yes.

8 Q. Were you aware during this time period that the
9 campaigns were tracking whether individuals within
10 companies, one had donated, and two, to what amounts?

11 A. I was not.

12 Q. There were times when you were preparing fliers,
13 campaign invitations, is that correct?

14 A. Yes.

15 Q. And when you were drafting those invitations, first off
16 was one of the primary concerns you had was the format and
17 how it looked?

18 A. Yes.

19 Q. Whether people would actually read it up on a bulletin
20 board or open it up and be able to see what it is?

21 A. Yes.

22 Q. Are you aware of whether there are any legal
23 requirements whatsoever for what goes on an invitation?

24 A. No.

25 Q. Did Jim ever indicate to you that there were any legal

Crane - Cross

1 requirements for what went on an invitation?

2 A. Not that I recall.

3 Q. And I take it then Jim never indicated to you that he
4 was aware of any legal requirements for what goes on an
5 invitation?

6 A. No.

7 Q. Is it accurate that the samples that you used to draft
8 invitations, as well as contribution forms, came from the
9 campaigns themselves?

10 A. Sometimes.

11 Q. And often times you would use an invitation or a
12 contribution form from a previous event or that a campaign
13 had previously sent to you?

14 A. Sometimes.

15 Q. As it relates to the series of invitations that the
16 Government went over with you on direct examination, there
17 were four or five iterations of it, do you recall that
18 discussion?

19 A. Sometimes.

20 Q. Do you recall the discussion--the testimony that you
21 gave on direct examination regarding the variations of that
22 invitation?

23 A. Yes.

24 Q. And I will refer to the invitation--if I may have just a
25 moment.

Crane - Cross

1 (Pause)

2 BY MR. CARR:

3 Q. The Government mentioned that there was--I believe it
4 was Governor Tomblin's invitation, there was State Code
5 language which had been removed. Do you remember that?

6 A. Yes.

7 Q. Jim didn't tell you to remove that, did he?

8 A. I don't recall.

9 Q. That final iteration of it you were sending to him,
10 correct?

11 A. Correct.

12 Q. And you mentioned in the e-mail that you thought that it
13 looked better?

14 A. Yes.

15 Q. The primary concern is formatting and making sure that
16 there's space so that people can read them?

17 A. For the most part, yes.

18 MR. CARR: May I have just a moment, Your Honor?

19 THE COURT: Yes.

20 (Pause)

21 MR. CARR: Nothing further.

22 THE COURT: All right. Thank you. Redirect?

23 MR. DOUGLAS: No, Your Honor.

24 THE COURT: Is the witness excused?

25 MR. DOUGLAS: By the Government, Your Honor.

Crane - Cross

1 THE COURT: By the defendant?

2 MR. CARR: Yes, Your Honor.

3 THE COURT: All right. Thank you, Ms. Crane. You
4 may step down. Your excused as a witness and free to go.

5 (Witness excused)

6 THE COURT: Ladies and Gentlemen, we will recess
7 for lunch in just a moment. All right, Ladies and Gentlemen
8 we will take the noon hour recess. I would ask that you be
9 prepared to return to the courtroom at one o'clock and
10 during the recess please follow my instructions that you are
11 not to discuss the case among yourselves or with anyone with
12 whom you have contact.

13 If a third party attempts to approach you to discuss the
14 case, please walk away from them, instruct them you've been
15 directed not to discuss the case with them and if they
16 persist in trying to talk to you, please let me know through
17 Court Security or Debbie at your earliest opportunity.

18 Please don't review any media coverage of the case,
19 should there be any, whether on the telephone--telephone,
20 excuse me, the radio, the TV or in the newspaper and don't
21 consult Google or any other--Safari or anything else on your
22 telephone or your tablet in order to do independent
23 research. Please don't do any independent research at the
24 library either.

25 Do you have any questions or concerns at this time? Is

1 an hour sufficient for your lunch? Okay. Very good.

2 Then we'll see you back here ready to come in at one
3 o'clock. Please leave your notebooks face down on your
4 chairs and thank you for your attention and patience.

5 The alternates will just come back into the jury box as
6 you did before. Thank you.

7 (Jury out at 11:55 a.m.)

8 THE COURT: All right. I just want to advise that
9 while I don't think anybody actually went to sleep we had a
10 couple of jurors who were nodding off. In my lack of
11 attention, I apologize, I was reading over the final
12 instructions so I apologize for that.

13 Do you know how long the Government's case in chief will
14 take from this point on?

15 MR. DOUGLAS: We anticipate that it will last into
16 tomorrow but not past the lunch hour.

17 THE COURT: So through the rest of today and
18 tomorrow morning. How many more witnesses?

19 MR. DOUGLAS: Seven.

20 THE COURT: Okay. All on the same subject matter
21 and in the same manner?

22 MR. DOUGLAS: There are a couple that are not
23 related to Mepco but there's--there's Bill Raney who is the
24 West Virginia Coal Association President and there's Charles
25 Huguenard who worked for Longview so there's a little bit

1 different angles coming in through them.

2 THE COURT: Okay. All right. I just think it's
3 worth noting that the jurors--a couple of the jurors are
4 nodding. I'm going to have to interject a comment to them
5 if that continues or you can modify how you approach things
6 to see if we can keep their interest.

7 MR. DOUGLAS: Just for the Court's information--

8 THE COURT: And I do appreciate the way you
9 compressed some of those exhibits' admission this morning.

10 MR. DOUGLAS: For your information, most of the
11 remaining witnesses will be very few exhibits, not like
12 Hughes or Crane.

13 THE COURT: Okay. Thank you. And when the
14 defendant's case begins, I know it's a rough estimate, what
15 do you estimate your time frame to be, a day, longer?

16 MR. CARR: Your Honor, I would estimate a half a
17 day.

18 THE COURT: A half a day. All right. As I said,
19 I've been going over the charge and I think what we'll try
20 to do is have something to you no later than noon tomorrow
21 and that would include a draft of the verdict form with the
22 special interrogatories. Of course at this point there are
23 a lot of guesstimates by me as to what is actually going to
24 happen but we do know you told the jury that Mr. Laurita's
25 going to testify, so I'm going to prepare the charge that

1 way.

2 MR. CARR: Absolutely, Your Honor.

3 THE COURT: Okay. Thank you. Is there anything
4 else before we recess?

5 MR. DOUGLAS: No, Your Honor.

6 MR. CARR: No, Your Honor.

7 THE COURT: Court stands in recess until one
8 o'clock. Thank you.

9 (Recess from 11:58 a.m., until 1:00 p.m.)

10 THE COURT: Thank you. Please be seated. All the
11 jurors are back. We can bring the jury in. Is your next
12 witness ready?

13 MR. DOUGLAS: Yes, Your Honor.

14 THE COURT: Okay.

15 (Jury in 1:03 p.m.)

16 THE COURT: You can be seated. Welcome back,
17 Ladies and Gentlemen. I hope the temperature here in the
18 courtroom will be warm enough for you. We've been working
19 on it during the noon recess. I can guarantee you it's
20 warmer than it is outside. All right. We're ready to
21 resume with the Government's next witness.

22 MR. BERNARD: Thank you, Your Honor. The United
23 States would call Kent Lindsay.

24 THE COURT: All right. What's the first name, Mr.
25 Bernard?

Lindsay - Direct

1 MR. BERNARD: Kent.

2 THE COURT: Kent Lindsay, Ladies and Gentlemen.

3 (Pause)

4 THE COURT: Mr. Lindsay, good afternoon. Would you
5 approach the Clerk standing here in the front of the
6 courtroom in the gray suit. She'll administer the oath to
7 you before you take the witness stand.

8 KENT LINDSAY, GOVERNMENT'S WITNESS, SWORN

9 THE CLERK: Thank you. You can have a seat in the
10 witness stand. The witness is Kent Lindsay, L-i-n-d-s-a-y.

11 THE COURT: All right. Mr. Lindsay, if you'll
12 speak in a loud, clear voice into the microphone and you may
13 adjust it to fit your needs.

14 You may proceed.

15 MR. BERNARD: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. BERNARD:

18 Q. Mr. Lindsay, could you give us a little bit of your
19 background, where you live, where you're from and some
20 employment and educational background please?

21 A. Yes. I live in Pittsburgh, Pennsylvania. I have
22 education in finance and economics. I have been a financial
23 analyst and manager of financial departments in the energy
24 industry since I graduated from college, up to the time of
25 employment with Mepco where I was Chief Financial Officer

Lindsay - Direct

1 and have continued. I am Chief Financial Officer of
2 Pittsburgh Water and Sewer today.

3 Q. Okay. And I think you said this, but when did you first
4 become employed at Mepco?

5 A. It was the summer of 2009.

6 Q. 2009. All right. And you were the Chief Financial
7 Officer?

8 A. That's correct.

9 Q. Who hired you at Mepco?

10 A. Jim Laurita hired me.

11 Q. And at some point during your employment with Mepco, did
12 you get involved in a program concerning political campaign
13 contributions?

14 A. Yes, I did.

15 Q. How did that begin or commence?

16 A. There was a meeting called where Jim called the
17 executive team into a meeting and said that we needed to
18 support some candidates that had positive views on coal and
19 he asked us to help him in contributing to some political
20 candidates that shared those views and would reimburse us
21 for any contributions that we made.

22 Q. Okay. So let me break that down. The--you said Jim,
23 that would be the defendant here in court?

24 A. Yes.

25 Q. He indicated that he was interested in having you make

Lindsay - Direct

1 political contributions?

2 A. Yes.

3 Q. Did he tell you who was going to decide which candidates
4 who were going to receive those contributions?

5 A. He indicated that he would.

6 Q. And I think you just indicated, who was ultimately going
7 to pay for those contributions?

8 A. Mepco would.

9 Q. At that first meeting did you discuss the mechanics of
10 how this was going to work, how your contributions were
11 going to be made and any--any of the details at that first
12 meeting?

13 A. I don't recall any specific details; no.

14 Q. Could you tell us what were the details? How did it
15 work? How is it that you began to make contributions?

16 A. Either Jim or more typically Karen Hughes would
17 distribute either a piece of paper or tell us orally or send
18 an e-mail indicating which candidates we were to make
19 contributions to and how much.

20 Q. And did the program--was it also suggested that your
21 spouses would be involved in the program?

22 A. Yes.

23 Q. Prior to this--this time when that first meeting
24 occurred when you first started making contributions, had
25 either you or your spouse contributed to political campaigns

Lindsay - Direct

1 in the past?

2 A. No, we had not.

3 Q. And at that time what was being explained to you, that
4 the company was going to reimburse you for these
5 contributions, did that make a difference to you?

6 A. No it didn't.

7 Q. Would you, if the company would have said, hey, I want
8 you to contribute to these political candidates but I'm not
9 going to reimburse you, would you've done that?

10 A. No, I would not.

11 Q. Let's talk about once you received the instructions for
12 those political contributions that you just indicated the
13 information you received from Karen Hughes?

14 A. Yes.

15 Q. What next would happen?

16 A. We would cut a check or occasionally go out to the
17 website, click the donate button, make a donation. We would
18 hand the check or donation receipt to Karen and she would
19 track all of that and made sure we--we get paid.

20 Q. That was going to be my question, whether somebody kept
21 track of that and I think you just indicated Karen?

22 A. That's correct.

23 Q. Did you receive, during the time that she was tracking
24 or recording the donations--obviously--did she record
25 records regarding the donations you made?

Lindsay - Direct

1 A. I don't know exactly what she recorded but she did keep
2 track.

3 Q. What was the purpose of her keeping track of that
4 information?

5 A. To insure that we got reimbursed for those
6 contributions.

7 Q. During this time frame did you receive any spreadsheets
8 or any reports from her concerning your contributions?

9 A. Yes I did.

10 Q. And what was reflected on those spreadsheets, if I can
11 use that term?

12 A. The contributions we made, the amounts, the dates and
13 then how much we had been reimbursed.

14 Q. Did you yourself ever go around collecting checks or
15 delivering checks to campaigns?

16 A. No I did not.

17 Q. Did you attend fundraisers?

18 A. I attended one fundraiser; yes.

19 Q. Now it's my understanding that you were, without leading
20 you, is it fair to say you were a salaried employee?

21 A. Yes I was.

22 Q. How is it that the payroll deposits would appear in your
23 account--bank account?

24 A. They would get direct deposited like any other employee
25 compensation.

Lindsay - Direct

1 Q. How many times a month were your salary payments?

2 A. Twice a month?

3 Q. And did you also receive--prior to this political
4 campaign contribution program, were you already receiving a
5 so called tonnage bonus?

6 A. Yes.

7 Q. How often would you receive that in your account?

8 A. That would occur once a month.

9 Q. And any other--at least during the time of the campaign
10 contribution program, any other deposits that appeared in
11 your account as payroll, would that--would it be fair to say
12 that was the campaign contribution deposits?

13 A. Most of them would be. There would be an occasional
14 expense reimbursement.

15 Q. Okay. We'll talk about some of those.

16 MR. BERNARD: Your Honor, may I approach the
17 witness?

18 THE COURT: You may.

19 MR. BERNARD: Thank you.

20 BY MR. BERNARD:

21 Q. I'm going to set in front of you two exhibits marked 10
22 and 11 and ask you if you could look through those and then
23 I have a few questions. Specifically if you could look at
24 Exhibit 10 first and really my question is what is that
25 compilation of documents?

Lindsay - Direct

1 A. This appears to be checks, credit card statements and
2 the like reflecting contributions to candidates.

3 Q. They reflect contributions to candidates pursuant to the
4 Mepco program that we've been talking about?

5 A. Yes.

6 MR. BERNARD: Your Honor, I would ask that Exhibit
7 10 be admitted.

8 THE COURT: Is there any objection to the admission
9 of Government Exhibit 10?

10 MR. CARR: No, Your Honor.

11 THE COURT: All right. Government Exhibit 10 is
12 admitted.

13 (Government Exhibit 10 admitted.)

14 BY MR. BERNARD:

15 Q. Now could you please turn to Exhibit 11 and again, the
16 same question, can you identify what that compilation of
17 documents is?

18 A. These are the--our checking account documents that
19 reflect payments by Mepco to my wife and I.

20 Q. All right. Thank you. Your Honor, I'd ask that
21 the--let me ask you I guess first of all when you say
22 payments, do those records reflect payments that were made
23 to you, or advances made to you, pursuant to the Mepco
24 political campaign contribution program we've been talking
25 about?

Lindsay - Direct

1 A. Among other deposits, yes.

2 MR. BERNARD: Your Honor, I would ask for admission
3 of Exhibit 11.

4 THE COURT: Is there any objection?

5 MR. CARR: No, Your Honor.

6 THE COURT: The Court admits Government Exhibit 11.

7 MR. BERNARD: Thank you, Your Honor.

8 (Government Exhibit 11 admitted.)

9 BY MR. BERNARD:

10 Q. Let's look at page three of Exhibit 11 please. Looking
11 at page three, do you see a deposit on March 9th, 2010?

12 A. Yes.

13 Q. And I know it doesn't say 2010 but can you tell that
14 statement is from 2010?

15 A. Yes.

16 Q. Okay. March 9th, 2010 there is an eleven thousand three
17 hundred and ninety-six deposit into your account. What was
18 that deposit for?

19 A. Reimbursement for political contributions.

20 Q. Would you please turn to page six? Looking at page six
21 of Exhibit 10 do you see a ten thousand dollar one hundred
22 and eight and eighty cent deposit?

23 A. Yes.

24 Q. Okay. What is that for?

25 A. That's compensation under the program.

Lindsay - Direct

1 Q. When you say compensation, that was money you received
2 to make--

3 A. Political contributions. I'm sorry.

4 Q. That's all right. Let's go to page nine please. Okay
5 on page nine do you see a deposit, this is March 17th and
6 again I'll represent to you that it's March 17th, 2011, is
7 that accurate?

8 A. Yes.

9 Q. And do you see a fourteen thousand eight hundred and
10 twenty dollar deposit?

11 A. Yes.

12 Q. Was that deposit made by Mepco for political campaign
13 contributions?

14 A. Yes, it was.

15 Q. Turning then to page twelve of Exhibit 11, and if you
16 look at August 12th and again I'll represent to you, and you
17 correct me if I'm wrong, August 12th of 2011, is that a fair
18 statement?

19 A. Yes.

20 Q. Do you see the deposit for twelve thousand six hundred
21 ninety-six dollars?

22 A. Yes.

23 Q. Is that also a deposit made for political contributions
24 by Mepco?

25 A. Yes, it is.

Lindsay - Direct

1 Q. And with respect to all these deposits made into your
2 account, is it your understanding that all funds that you
3 received for political contributions went to political
4 contributions?

5 A. Yes.

6 Q. Let's go to Exhibit 10 please. I am just going to ask
7 you quickly to identify each one of these pages and then
8 I'll have a few questions at the end of that little
9 exercise, all right?

10 A. Okay.

11 Q. Okay. Let's look at Exhibit--first page of Exhibit 10.
12 What is that?

13 A. That is a payment to McKinley by my wife.

14 Q. Okay. What about page two?

15 A. That is a payment to McKinley by me.

16 Q. Page three?

17 A. That's a payment to McKinley by my wife.

18 Q. And I didn't ask on the other ones, but this payment
19 June 24th, 2010?

20 A. Yes.

21 Q. This check. All right. Let's turn to page five and if
22 you would zero in on transaction seventy please. Do you see
23 transaction seventy?

24 A. Yes.

25 Q. Okay. What is that?

Lindsay - Direct

1 A. A payment to Manchin for a thousand dollars.

2 Q. Let's go to the next item, next--page six. Can you tell
3 me what that is?

4 A. Payment to Capito for five hundred dollars.

5 Q. All right. And the date of that is September 9th, 2010?

6 A. Yes.

7 Q. Okay. Next page, if you would look at transaction
8 thirteen and what are these records of? I don't know if you
9 told me that, but if you did I missed it.

10 A. They're checks cut from my personal checking account or
11 payments on my credit card.

12 Q. And page seven, would that be a payment from your credit
13 card?

14 A. Yes it would be.

15 Q. And let's look at transaction thirteen, what is that?

16 A. It's a payment to McKinley for twenty-five hundred
17 dollars.

18 Q. Page eight, what is that item?

19 A. That is a check paid to McKinley for twenty-five hundred
20 dollars.

21 Q. Okay. Dated March 31st, 2011?

22 A. Yes.

23 Q. Let's go to page eleven and using transaction
24 fifty-three. Do you see transaction fifty-three?

25 A. Yes.

Lindsay - Cross

1 Q. What is that?

2 A. It's a payment to Manchin for five thousand dollars.

3 Q. And then finally the last page, page twelve, if you'd
4 look at transaction number six please. Can you tell me what
5 transaction number six is?

6 A. It's a payment to Snuffer for a thousand dollars.

7 Q. Okay. Now with regard to all of the contributions that
8 are set forth in Exhibit 10, were those all contributions
9 that you made at the direction of the defendant?

10 A. Yes.

11 Q. And who ultimately reimbursed you for all those
12 contributions?

13 A. Mepco did.

14 Q. Did anybody ever tell you at Mepco that the--the
15 additional bonus we've been talking about, this--this
16 deposit for political contributions was for anything or
17 related to anything other than political contributions?

18 A. No.

19 MR. BERNARD: Thank you, Your Honor. No further
20 questions at this time. I'll retrieve the exhibits.

21 THE COURT: Thank you. Cross-examination?

22 CROSS EXAMINATION

23 BY MR. CARR:

24 Q. Mr. Lindsay, the candidates as well as the amounts that
25 you gave during the time period of what has been referred to

Lindsay - Cross

1 as the program, those were always suggestions, is that
2 correct? No one ever told you that you had to?

3 A. Correct.

4 Q. And you never had any disagreement with the candidate
5 that was suggested?

6 A. No.

7 Q. Were you familiar before you started at Mepco with the
8 coal industry?

9 A. Yes.

10 Q. Do you generally understand which candidates were
11 supporting the industry and which ones weren't?

12 A. Not really.

13 Q. Consequently those suggestions gave you that
14 information, is that correct?

15 A. Yes.

16 Q. No one at any time told you to deny what your additional
17 bonus was for, is that correct?

18 A. Correct.

19 Q. And did you also, by the way, receive an anniversary and
20 a wellness or health bonus?

21 A. No, not that I'm aware of.

22 Q. Some witnesses have testified that every year there was
23 a bonus given to everyone just for being an employee of the
24 company. You don't recall getting that?

25 A. There was a gift around Christmas time.

Lindsay - Cross

1 Q. And all the deposits from Mepco were treated within the
2 payroll system in an identical fashion, whether it be
3 salary, tonnage bonus, bonus two as it's been referred to or
4 any other money that Mepco gave to you ever during your
5 employment, it came through the payroll system and was
6 direct deposited?

7 A. That's correct.

8 Q. Were you aware that the contribution amounts and the
9 campaigns varied amongst the executives?

10 A. No.

11 Q. Were you aware that at times there was a disagreement
12 amongst the executives as to which candidate to support?

13 A. No.

14 Q. You weren't part of those discussions?

15 A. I was not.

16 MR. CARR: Your Honor, may I approach?

17 THE COURT: You may.

18 BY MR. CARR:

19 Q. Mr. Lindsay, I'm handing you what's been marked as
20 Defendant's Exhibit B. I'll give you a moment to review it.
21 Do you recognize that document?

22 A. I don't recall it specifically but it appears to be an
23 e-mail from Karen to me.

24 Q. You don't recall it specifically?

25 A. No.

Lindsay - Cross

1 Q. Do you doubt that it is accurate?

2 A. No I don't.

3 MR. CARR: Your Honor, at this time I move for the
4 admission of Defendant's Exhibit B.

5 THE COURT: Any objection?

6 MR. BERNARD: No, Your Honor.

7 THE COURT: All right. Defendant's Exhibit B is
8 admitted.

9 (Defendant Exhibit B admitted.)

10 MR. CARR:

11 Q. Mr. Lindsay, Defendant's Exhibit B is an e-mail from
12 Karen Hughes to you, is that correct?

13 A. Yes.

14 Q. Dated October 4th of 2010?

15 A. Yes.

16 Q. And the second page, and it was the attachment to the
17 e-mail, is that the spreadsheet that you mentioned on direct
18 examination that you occasionally got from Karen?

19 A. Yes.

20 Q. And in the e-mail she is asking--she's missing some
21 donations and is asking you if you intend to make those
22 donations, is that correct?

23 A. Yes.

24 Q. She's certainly not telling you that you have to you
25 better get them to her?

Lindsay - Cross

1 A. Correct.

2 Q. And nobody did that?

3 A. Not to my recollection.

4 Q. In looking at your bank records it appears that nearly
5 all, if not all of your income, during the 2010-2013 time
6 period came from Mepco. Is that accurate?

7 A. Yes.

8 Q. And all of those Mepco payments went to a single bank
9 account?

10 A. Yes.

11 Q. During the time period when the program was in
12 existence, Jim Laurita never indicated to you in any way,
13 shape or form that there was anything unlawful with the
14 program. Is that correct?

15 A. That's correct.

16 Q. And you never indicated to him that you had any concerns
17 that the program may be unlawful?

18 A. That's correct.

19 MR. CARR: Just a moment, Your Honor.

20 (Pause)

21 MR. CARR: Nothing further, Your Honor. I'll
22 return Defendant's Exhibit B to the Court.

23 THE COURT: Thank you. Is there any redirect?

24 MR. BERNARD: No, Your Honor. Thank you.

25 THE COURT: All right. Thank you. Is the witness

Huguenard - Direct

1 excused and free to go, Government?

2 MR. DOUGLAS: Yes, Your Honor.

3 THE COURT: Mr. Parr--Carr, I do that every now and
4 then.

5 MR. CARR: Yes, Your Honor.

6 THE COURT: Then the witness is free to step down.
7 Mr. Lindsay, you're excused as a witness.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Okay.

10 (Witness excused)

11 THE COURT: Government's next witness?

12 MR. BERNARD: Your Honor, the United States would
13 call Charles Huguenard.

14 THE COURT: Charles Huguenard.

15 (Pause)

16 THE COURT: Mr. Huguenard, would you please
17 approach the Clerk standing here in the front of the
18 courtroom? She will administer the oath to you before you
19 take the witness stand.

20 CHARLES HUGUENARD, GOVERNMENT'S WITNESS, SWORN

21 THE CLERK: Thank you. Please have a seat in the
22 witness stand. The witness is Charles Huguenard,
23 H-u-g-u-e-n-a-r-d.

24 THE COURT: Mr. Bernard, you may proceed.

25 MR. BERNARD: Thank you, Your Honor.

Huguenard - Direct

1 DIRECT EXAMINATION

2 BY MR. BERNARD:

3 Q. Mr. Huguenard, could you give us a little bit of
4 background, your education and employment history please?

5 A. I have a Bachelors in Mechanical Engineering. My
6 background I worked in mostly coal-fired power plants as an
7 engineer and in various stages of supervision and
8 management.

9 Q. At some time did you become employed or affiliated with
10 Longview Power LLC?

11 A. Yes, November 2007.

12 Q. And what was Longview Power LLC?

13 A. They were a company that was building a coal-fired power
14 plant near Morgantown, West Virginia.

15 Q. Okay. And with regard to Longview, did you at some
16 point become acquainted with the defendant Mr. Laurita?

17 A. Yes.

18 Q. And what was--what were your interactions?

19 A. Jim was president of Mepco, which is the coal supply--we
20 had a coal supply agreement with Mepco, Longview had the
21 supply agreement.

22 Q. And Mepco--that supply agreement, what specifically was
23 that agreement between Mepco and Longview?

24 A. To provide a certain amount of tonnage and a certain
25 quality of coal once Longview became operational.

Huguenard - Direct

1 Q. Now with respect to Longview, what were your specific
2 duties when you came on board?

3 A. My role was to transition the facility from construction
4 into operation, hire the staff, make sure they get the
5 training, make sure they have procedures in place in order
6 to commission the facility once the construction was
7 finished.

8 Q. And without getting into too much detail, just trying to
9 get a little bit of background, is it fair to say Mepco,
10 there's going to be a conveyor belt and direct access to a
11 Mepco mine and the power plant?

12 A. Yes.

13 Q. Did you--did the plant have any problems? Were there
14 any problems with it becoming operational?

15 A. Yes. There were--the contractors had some issues.

16 Q. And, again, without getting into too many details, what
17 were those issues in general?

18 A. They got behind schedule for various reasons. They had
19 to repair some construction defects.

20 Q. Did any of the problems with Longview becoming
21 operational have anything to do with Mepco or Mepco's
22 inability to provide coal?

23 A. No.

24 Q. Did you--once you became acquainted with the defendant,
25 did you become involved politically with him, and I say that

Huguenard - Direct

1 in a general sense?

2 A. Yes. I would attend some fundraisers.

3 Q. Did you do more than attend, did you co-host
4 fundraisers?

5 A. Yes, a few of them.

6 Q. Co-hosted them with the defendant?

7 A. Yes.

8 Q. Did you have discussions with the defendant about
9 candidates that should be supported?

10 A. Yes.

11 Q. Did you seek any advice from the defendant as far as
12 politics or political candidates?

13 A. Yes.

14 Q. Did you ever seek advice from the defendant concerning
15 contributions and certain rules related to contributions?

16 A. At times.

17 Q. Okay. Was he able to provide you answers?

18 A. Sometimes.

19 Q. What happened in those times when he wasn't able to
20 provide an answer?

21 A. I would--he would either get information from somewhere
22 else or I would find someone else that could answer the
23 question.

24 Q. All right. And did any of those discussions you had
25 with the defendant--and let's put a time frame, would this

Huguenard - Direct

1 have been approximately 2009 through what?

2 A. 2012, 2013 possibly.

3 Q. Okay. And during those times when you had discussions
4 about campaign issues did the questions of individual limits
5 ever come up?

6 A. At times.

7 Q. What are individual limits? I used that term. How do
8 you understand--when I use the term individual limit, what
9 is that?

10 A. The different states had different limits that you could
11 provide a candidate running for--even the different seats
12 they were seeking, how much you could provide during the
13 campaign.

14 Q. When you say you, what do you mean you?

15 A. An individual.

16 Q. Okay. Like you?

17 A. Like myself.

18 Q. Okay. And if you were going to give to a certain
19 candidate, there are certain limits?

20 A. Yes.

21 Q. That you could not exceed yourself?

22 A. Yes.

23 Q. Were there any discussions or did you have any
24 experience with direct or indirect payments if you know what
25 I'm saying?

Huguenard - Direct

1 A. Ahh--

2 Q. When you say--let me back up. When you say you, the
3 limits are for you individually?

4 A. Yes.

5 Q. And once you hit your limit--are you with me?

6 A. Yes.

7 Q. Are you able then to make any further contributions in
8 any manner indirectly or directly to your knowledge?

9 A. No.

10 Q. Okay. And do you know what I mean by indirectly?

11 A. I believe so.

12 Q. Okay. Tell me what I mean.

13 A. I think--I guess indirectly is providing money to
14 someone else to provide that candidate.

15 Q. Did you ever do that?

16 A. No.

17 Q. Did you ever have any discussions with anybody at
18 Longview, employees of yours, to make such contributions?

19 A. No.

20 MR. CARR: Objection. Relevance.

21 THE COURT: Sustained.

22 MR. BERNARD: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 MR. BERNARD: Thank you.

Huguenard - Direct

1 BY MR. BERNARD:

2 Q. I'm handing you Exhibit 1-8. If you could look at that
3 and then in a general sense identify what Exhibit 1-8 is.

4 A. This an e-mail from myself to Jim Laurita.

5 Q. Okay. And what was it in reference to generally?

6 A. To an article that I had sent him.

7 Q. Okay. Let me ask you this. Did it relate in general to
8 the coal industry and the issues that you were all facing at
9 or about the time of this e-mail.

10 A. The discussion did, yes.

11 Q. And were those some of the topics that you discussed
12 with regard to political campaigns and who to support, some
13 of these issues that you're talking about in--in this
14 e-mail?

15 A. In general.

16 MR. BERNARD: Your Honor, I'd ask that Exhibit
17 1-8--I'd move for its admission.

18 THE COURT: Is there any objection?

19 MR. CARR: No, Your Honor.

20 THE COURT: Thank you. Then the Court admits
21 Government Exhibit 1-8.

22 (Government Exhibit 1-8 admitted.)

23 BY MR. BERNARD:

24 Q. If you could pull up the first section of that--the top
25 section. Without reading the entire e-mail, do you see

Huguenard - Direct

1 where--let me ask you this, who--this portion of it, is it
2 fair to say this is an e-mail from the defendant to you?

3 A. Yes.

4 Q. Okay. And in there he said I've historically not gotten
5 this much politically involved in the past. Were you aware
6 of his political activity in the past versus at the time of
7 this e-mail?

8 A. No.

9 Q. So you can't comment as to what he meant by that?

10 A. No.

11 Q. Okay. Let me ask you however, he does go on to say that
12 we have too much at stake financially. What was your
13 understanding of what the defendant was referring to when he
14 said we have too much at stake financially?

15 A. My understanding was that the capital investment in the
16 Mepco mines, particularly Four West mine was over a hundred
17 million dollars, was required to double the capacity, the
18 output of the mine to supply Longview.

19 Q. Okay. And is it fair to say that at that time, to your
20 knowledge, Mr. Laurita had a great concern about that
21 financial investment in the Mepco mine?

22 MR. CARR: Objection. Foundation.

23 MR. BERNARD: I asked to his understanding and
24 based on his discussions.

25 THE COURT: Based on his understanding I'll allow

Huguenard - Direct

1 it. Overruled.

2 BY MR. BERNARD:

3 Q. Do you remember my question?

4 A. Could you repeat it?

5 Q. I can. Based on your understanding, your interactions
6 with the defendant, discussions, did he profess a concern
7 about the financial stake or the investment in Mepco that
8 you just mentioned?

9 A. In general he was concerned because of the things that
10 were going on at the time.

11 Q. In other words, he and/or Mepco stood to lose--they
12 stood to lose a lot of money?

13 A. Mepco did, yes.

14 Q. If Mepco lost money, would the defendant lose money?

15 MR. CARR: Objection. Foundation. Relevance.

16 THE COURT: Sustained.

17 BY MR. BERNARD:

18 Q. Let me switch to campaign contributions by Mepco
19 employees. During the time when you were interacting with
20 the defendant and let's say this same time frame, 2009
21 through 13, were you able to observe whether Mepco
22 executives were involved in fundraisers or contributing to
23 political campaigns?

24 A. They would attend some of the fundraisers, yes.

25 Q. Okay. Do you, yourself, have any knowledge specifically

Huguenard - Direct

1 about the origin of their donations or any directions by the
2 defendant concerning those donations?

3 A. No.

4 Q. At some point did you become aware that there was a
5 concern about improper campaign contributions being made by
6 Mepco executives?

7 A. After the bankruptcy filing in August 2013 there was
8 another filing made that included some verbiage about the
9 potential of inappropriate contributions.

10 Q. Other than that, did you delve any further into what
11 happened or whether--you know, and able to form an opinion
12 as to what happened?

13 A. I asked--

14 MR. CARR: Objection, Your Honor, relevance as to
15 the witness' opinion.

16 THE COURT: He hasn't asked what that opinion is.
17 I wouldn't allow it but--

18 MR. BERNARD: I'll rephrase, Your Honor.

19 BY MR. BERNARD:

20 Q. Did you have any knowledge factually of what occurred
21 pursuant to those concerns at Mepco with regard to political
22 campaign contributions?

23 A. In the Fall of 2013 when that notice came out and Jim
24 Laurita resigned, I asked--

25 MR. CARR: Objection, Your Honor. Relevance.

Huguenard - Cross

1 MR. BERNARD: I guess what I'm asking is--

2 THE COURT: Overruled. It's appropriate background
3 information. Answer the question.

4 BY MR. BERNARD:

5 Q. My question simply is, did you have any independent
6 facts yourself?

7 A. Prior to 2013. No.

8 Q. And even 2013, the facts you learned were based upon
9 reports of others?

10 A. Yes. Third or fourth hand.

11 MR. BERNARD: I have no further questions at this
12 time, Your Honor. Thank you.

13 THE COURT: Thank you. Cross-examination?

14 CROSS EXAMINATION

15 BY MR. CARR:

16 Q. Mr. Huguenard--am I pronouncing that correctly?

17 A. Yes.

18 Q. During that time period of 2010 to 2013, was it--did you
19 receive a significant amount of requests--requests for
20 involvement or donations from elected officials as well as
21 those seeking office?

22 A. Yes.

23 Q. Is it fair to say that there was a tremendous amount of
24 money pouring in on both sides on what was called at the
25 time the war on coal?

Huguenard - Cross

1 A. I don't know.

2 Q. There certainly was a lot of activity though, is that
3 correct?

4 A. Yes.

5 Q. And you mentioned the importance to Mepco. That also
6 threatened Longview, did it not?

7 A. Yes, we had the coal supply agreement with Mepco.

8 Q. And legislation that was pending was also--the
9 regulations restricting air quality out of the plant could
10 have significant impact on Longview's operation, is that
11 accurate?

12 A. It could have.

13 Q. You mentioned you sought advice--advice at times on
14 candidates and political issues from Jim. Is that correct?

15 A. At times.

16 Q. And you knew that he was an officer of the West Virginia
17 Coal Association, is that correct?

18 A. Yes.

19 Q. And so you expected him to have that knowledge about the
20 candidates?

21 A. Yes.

22 Q. You were asked about generally seeking advice from Jim
23 on campaign contribution topics. Do you recall specifically
24 what topics you talked to Jim about?

25 A. Primarily we discussed the various candidates that were

Huguenard - Cross

1 running for the various seats.

2 Q. You did not ask him questions as far as details of
3 campaign finance law?

4 A. No.

5 Q. And in addition to the financial issues that were at
6 stake, both for Mepco and Longview, both organizations
7 employed a significant number of employees, is that correct?

8 A. Yes.

9 MR. CARR: May I have just a moment, Your Honor.

10 THE COURT: You may.

11 (Pause)

12 MR. CARR: Nothing further, Your Honor.

13 THE COURT: Any redirect?

14 MR. BERNARD: No redirect, Your Honor. Thank you.

15 THE COURT: All right. Is the witness excused?

16 MR. BERNARD: By the United States he is. Thank
17 you.

18 THE COURT: Is the witness excused by the
19 defendant?

20 MR. CARR: Yes, Your Honor.

21 THE COURT: All right. Thank you. Sir, you may
22 step down. You're excused as a witness and free to go.

23 (Witness excused)

24 THE COURT: Next witness.

25 MR. DOUGLAS: United States calls Eric Grimm.

Grimm - Direct

1 THE COURT: Eric Grimm.

2 MR. DOUGLAS: Yes, Your Honor.

3 (Pause)

4 THE COURT: Good afternoon, Mr. Grimm. Please step
5 forward to the front of the courtroom, I don't think you're
6 going to make that. I think you're going to have to come
7 down the middle and the Clerk standing here in the gray suit
8 will administer the oath to you before you take the witness
9 stand. Please raise your hand, your right hand.

10 ERIC GRIMM, GOVERNMENT'S WITNESS, SWORN

11 THE CLERK: Thank you. Please have a seat in the
12 witness stand. The witness is Eric Grimm, G-r-i-m-m.

13 THE COURT: You may proceed. Mr. Grimm, if you'll
14 speak in a loud, clear voice into the microphone. You may
15 adjust the microphone to your needs. Thank you.

16 DIRECT EXAMINATION

17 BY MR. DOUGLAS:

18 Q. Sir, please introduce yourself to the jury, including a
19 little background, work experience and education.

20 A. My name is Eric Grimm. I'm a degreed Mining Engineer
21 from the University of Missouri - Rolla. I have
22 thirty-three years in the mining industry, ten years in
23 operations and twenty-three years--I'm sorry, ten years in
24 engineering and twenty-three years in operation experience.

25 Q. How are you currently employed?

Grimm - Direct

1 A. Yes, I am.

2 Q. How are you currently employed, by whom?

3 A. I am employed by Murray Energy Corporation.

4 Q. Was there a time when you were employed by Mepco?

5 A. Yes there was.

6 Q. And what was the time frame of that employment?

7 A. 2000--end of 2005 to about the end of 2013.

8 Q. And who hired you in 2005?

9 A. Mr. James Laurita.

10 Q. Into what position did he hire you?

11 A. I was the Superintendent of the Four West Mine.

12 Q. Is that one of the mines operated by Mepco?

13 A. Yes it was.

14 Q. What are the names of the other ones?

15 A. There was Titus, Prime and Four West were the
16 underground mines and we had a contract operation called Red
17 Bum.

18 Q. And was it Four West Mine that was going to supply the
19 Longview Power Plant?

20 A. Yes.

21 Q. At some point did the defendant promote you to a vice
22 president position?

23 A. Yes.

24 Q. When was that?

25 A. Ah, 2012 or 13 time frame.

Grimm - Direct

1 Q. During your employment with Mepco, where was your office
2 located?

3 A. My office was in Pennsylvania at the mine site.

4 Q. Was there a time when you were working for the defendant
5 at Mepco that you began to make political contributions?

6 A. Yes.

7 Q. Could you tell the jury how that began?

8 A. We had a staff meeting somewhere 2010 and we--it was
9 brought up that we would make political contributions to
10 candidates that were--supported the industry.

11 Q. Who brought that up?

12 A. Mr. Laurita.

13 Q. And what was your understanding from that meeting as to
14 what your involvement would be?

15 A. We would be told who to write checks to and what amount
16 and then we would be reimbursed.

17 Q. You would be told by whom?

18 A. By Mr. Laurita.

19 Q. You would be reimbursed by what?

20 A. By Mepco.

21 Q. Prior to the contributions you made while working at
22 Mepco, had you made political contributions before?

23 A. Yes I had.

24 Q. And where were you employed when you were making
25 contributions before this time frame?

Grimm - Direct

1 A. At Murray Energy.

2 Q. What were the general amounts of the contributions that
3 you would make when you worked at Murray Energy?

4 A. One, two, three hundred dollars.

5 Q. And did any boss of yours or somebody above you ask you
6 to make those contributions?

7 A. No.

8 MR. CARR: Objection. Relevance.

9 THE COURT: Sustained.

10 BY MR. DOUGLAS:

11 Q. Let's talk a little bit about the mechanics of this
12 contribution program at Mepco. Was there a certain
13 individual that would communicate the instructions to you
14 about the candidate, the amount, whether a spouse would also
15 participate?

16 A. Yes.

17 Q. And who was that?

18 A. Normally Karen Hughes.

19 Q. And how would she typically communicate that to you
20 being at the Four West Mine?

21 A. By e-mail.

22 Q. Okay. Can you recall some of the candidates to which
23 you and your wife contributed during this time frame at
24 Mepco?

25 A. Manchin, Capito, McKinley, Critz, ah--I can't remember

Grimm - Direct

1 the others.

2 Q. That's fine. By what method did you or your wife
3 typically make your contributions?

4 A. By check.

5 Q. And what did you do with the check once you or your wife
6 had written it?

7 A. I'd have it delivered to the main office.

8 Q. Did you deliver to any one in particular?

9 A. I'd usually give it to either Jim or his assistant.

10 Q. On those occasions where you would give the checks to
11 the defendant, did he indicate what he was doing with those
12 checks?

13 A. Using--giving them to somebody in the campaign.

14 Q. Okay. Did the defendant ever ask you to deliver not
15 only your checks but additional checks to a campaign?

16 A. Yes.

17 Q. How many times would you say?

18 A. Couple times.

19 Q. And on those two occasions or those couple of occasions,
20 were you delivering other executive's checks as well?

21 A. Yes.

22 Q. Did you have any knowledge of anyone keeping record of
23 the contributions you were making, specifically someone at
24 Mepco?

25 A. I believe Karen kept track of them.

Grimm - Direct

1 Q. Do you recall receiving any record that she kept, her
2 sharing it with you?

3 A. She would tell us what we had contributed and if we're
4 maxed out or in that manner.

5 Q. Did you have any understanding of why she was keeping
6 the record, if you know?

7 A. I think because we--maybe certain limits.

8 Q. Now just to talk generally about your payroll deposits
9 while you were at Mepco. First of all, did you have a
10 salary?

11 A. Yes.

12 Q. And how would that come into your bank account?

13 A. Direct deposit.

14 Q. And how many times in a month?

15 A. I think we got paid every two weeks.

16 Q. Okay. And prior to this campaign contribution program,
17 were you already receiving a bonus for performance or for
18 tonnage?

19 A. Yes. There was a tonnage bonus monthly.

20 Q. Now an occasion did you communicate directly with the
21 defendant regarding politics at all?

22 A. Sometimes.

23 Q. Okay.

24 MR. DOUGLAS: May I approach the witness, Your
25 Honor?

Grimm - Direct

1 THE COURT: You may.

2 BY MR. DOUGLAS:

3 Q. I'm handing you a small stack of exhibits I want to go
4 over one by one. If you could just review that first on,
5 which is marked Government's Exhibit 1-14. What is Exhibit
6 1-14 generally?

7 A. It's an e-mail exchange between myself and James
8 Laurita.

9 Q. And are you discussing the political campaign
10 contribution program?

11 A. Yes.

12 MR. DOUGLAS: We move to admit 1-14.

13 THE COURT: Any objection?

14 MR. CARR: No, Your Honor.

15 THE COURT: Government Exhibit 1-14 is admitted.

16 (Government Exhibit 1-14 admitted.)

17 BY MR. DOUGLAS:

18 Q. We're going to bring that up now on your computer screen
19 up there and we're going to enlarge the content of the
20 e-mail and I would like you to read your e-mail to the
21 defendant on July 17, 2010 please?

22 A. Jim, I owe you four checks. Are they to be out to
23 Oliverio for Congress and McKinley for Congress? I will
24 send them to the office Monday with Jessica. Eric.

25 Q. What do you mean I owe you four checks?

Grimm - Direct

1 A. There were four checks requested that I make out and
2 send to--to those campaigns.

3 Q. And so you're asking him in addition to whom to make out
4 the checks. Does that mean you did not know to whom to make
5 out the checks?

6 A. I wanted to make sure that I had the names right.

7 Q. Okay. Thank you. We can bring that one down and I'd
8 like you to now look at the next exhibit in your stack up
9 there which is marked 1-51. What is 1-51 generally?

10 A. It is a e-mail exchange between myself and Jim Laurita.

11 Q. And are you forwarding him a campaign invitation--

12 A. Yes--

13 Q. --fundraiser--I'm sorry. A fundraiser invitation?

14 A. Yes.

15 MR. DOUGLAS: We move to admit Exhibit 1-51.

16 THE COURT: Any objection to the admission of 1-51?

17 MR. CARR: No, Your Honor.

18 THE COURT: The Court admits the exhibit.

19 (Government Exhibit 1-51 admitted.)

20 BY MR. DOUGLAS:

21 Q. If we could bring up 1-51 and if we could just go to
22 the--to the invitation. Why were you forwarding this Mark
23 Critz invitation to the defendant?

24 A. According to my e-mail--according to the e-mail that I
25 received from James Critz, he called me about the event and

Grimm - Direct

1 so I forwarded it on to Jim to make sure that he had seen
2 it.

3 Q. Why did you want to make sure he had seen it?

4 A. Because he--he would decide whether not we would
5 participate in that.

6 Q. Were you seeking his input before you would contribute
7 yourself to Mark Critz?

8 A. Yes.

9 Q. Why are you seeking the defendant's input before you
10 would make a contribution?

11 A. Because he's the one--Mr. Laurita decided who we would
12 contribute to and who we wouldn't.

13 Q. Okay. Thank you. Now if you would take a look at the
14 next exhibit in your stack which is Exhibit 1-91. Could you
15 tell me generally what that is, identify that please?

16 A. It's an e-mail to me from James Laurita.

17 Q. Is it in regard to a Critz fundraiser?

18 A. Yes it is.

19 MR. DOUGLAS: We move to admit Government's Exhibit
20 1-91.

21 THE COURT: Is there any objection?

22 MR. CARR: No, Your Honor.

23 THE COURT: The Court admits Government Exhibit
24 1-91.

25 (Government Exhibit 1-91 admitted.)

Grimm - Direct

1 BY MR. DOUGLAS:

2 Q. If we could bring up the e-mail itself please and we're
3 going to enlarge the top part of the chain. Could you
4 please read the e-mail from Mr. Laurita to you on August
5 22nd, 2012?

6 A. It says, Eric, I will be unable to attend this event as
7 it looks like I need the entire afternoon with BB&T Bank.
8 Are you willing to go? Would Cheryl want to go with you?

9 Q. And that's at 4:45 a.m., that e-mail?

10 A. Yes.

11 Q. Okay. I want to look at--could you look at, in your
12 stack 1-92. Does that appear to be an e-mail about the same
13 event on the same day just some minutes later, 1-92?

14 A. Yes.

15 MR. DOUGLAS: We move to admit 1-92.

16 THE COURT: Any objection?

17 MR. CARR: No, Your Honor.

18 THE COURT: Court admits Government Exhibit 1-92.

19 (Government Exhibit 1-92 admitted.)

20 BY MR. DOUGLAS:

21 Q. Please bring up the e-mail and we're going to enlarge
22 for you the top part of the chain. Could you please read
23 that e-mail?

24 A. Eric, attached is the up-to-date Critz fundraising we
25 have done for Critz, with my edits to the general. In

Grimm - Direct

1 essence I was only going to have Becky and I, and your and
2 Cheryl give to Critz. See attached. If you agree with
3 that, Karen will take care of adjusting your account. If we
4 need a different strategy, please advise.

5 Q. Thank you. If we could look at page two of that exhibit
6 and if we could enlarge that spreadsheet please. Did you
7 have any understanding why the defendant was forwarding to
8 you this spreadsheet of Critz contributions?

9 A. I don't recall.

10 Q. Did you agree to go to the Critz fundraiser that is
11 discussed here? Did you go, if you recall?

12 A. Yes I did.

13 Q. And is it fair to say he's sending you this spreadsheet
14 prior to going?

15 A. Yes.

16 Q. Does it indicate to you he wants you to take it with him
17 or to be with you or to be knowledgeable of it?

18 A. Yes.

19 Q. Okay. Now I want you to please look at Exhibit 6, which
20 I think 7 is next on your stack but if you could go to 6.
21 What generally is Government's Exhibit 6?

22 A. It is a check that I wrote to the McKinley for
23 Congress--

24 Q. Just, could you leaf through Exhibit 6 and tell us
25 generally what Exhibit 6 is?

Grimm - Direct

1 A. They are different checks I wrote to different
2 campaigns.

3 Q. Okay. And were these written pursuant to this program
4 we've been discussing?

5 A. Yes they were.

6 MR. DOUGLAS: We move to admit Government Exhibit
7 6.

8 THE COURT: Any objection?

9 MR. CARR: No, Your Honor.

10 THE COURT: Court admits Government Exhibit 6.
11 (Government Exhibit 6 admitted.)

12 BY MR. DOUGLAS:

13 Q. All right. And I just want to look at the first two.
14 First of all, on page one, let's enlarge that check for you.
15 Now can you please tell us what is on page one of Exhibit 6?

16 A. There's a check for McKinley for Congress for
17 twenty-five hundred dollars signed by myself.

18 Q. And why did you write that check?

19 A. To--as part of the program to donate to McKinley
20 campaign.

21 Q. And if we look at page two please and enlarge it. What
22 is depicted on page two?

23 A. It's McKinley for Congress for twenty-five hundred
24 dollars that I wrote and my wife signed.

25 Q. And could you note for us what the date is on this

Grimm - Direct

1 check?

2 A. March 18th, 2011.

3 Q. And did you notice what the date was on the first check
4 we were looking at? If not I'll bring it back up.

5 A. It was also March 18th, 2011.

6 Q. And both to McKinley?

7 A. Yes.

8 Q. Okay. Now is it fair to say that in general the rest of
9 these contributions were made pursuant to the program, that
10 we don't need to go over each one of them?

11 A. Yes they were.

12 Q. Okay. Now the last exhibit I want you to look at up
13 there please is Government Exhibit 7 and if you just leaf
14 through it and tell us generally what Exhibit 7 is?

15 A. Exhibit 7 is a copy of my bank records.

16 Q. Are they monthly statements of your checking account?

17 A. Yes they are.

18 Q. Is it of the account into which your Mepco payroll
19 deposits were made?

20 A. Yes it is.

21 Q. Including the additional deposits made for the program?

22 A. Yes.

23 MR. DOUGLAS: We move to admit Exhibit 7.

24 THE COURT: Any objection?

25 MR. CARR: No, Your Honor.

Grimm - Direct

1 THE COURT: Government Exhibit 7 is admitted.

2 (Government Exhibit 7 admitted.)

3 BY MR. DOUGLAS:

4 Q. And if we could please go ahead and cut to page two of
5 Exhibit 7 and first just enlarge--actually if you just
6 enlarge the top quarter there, the top--right there.

7 First, can you tell us the time period--where it says for
8 the period, what those dates are?

9 A. March 8th, 2011 to April 7th, 2011.

10 Q. And then if you look down into the deposits section, the
11 very first deposit, do you see the fifteen thousand
12 dollar--five hundred and some dollar deposit?

13 A. Yes.

14 Q. What was that for?

15 A. It was made on 3/17 and that would have been a--a bonus
16 for the--for the campaign contributions.

17 Q. Is it fair to say that's the day before the checks are
18 dated that we just looked at to the McKinley campaign?

19 A. Yes.

20 Q. Now at some point did you stop making contributions
21 while at Mepco?

22 A. Yes.

23 Q. Why did you stop?

24 A. It was--after the bankruptcy was filed we were informed
25 by the bankruptcy attorneys that--

Grimm - Direct

1 MR. CARR: Objection, Your Honor. Relevance.

2 MR. DOUGLAS: That's fine. Don't--

3 THE COURT: Sustained.

4 THE WITNESS: Okay.

5 By MR. DOUGLAS:

6 Q. Did you make any contributions, political contributions
7 during the program that weren't at the direction of the
8 defendant?

9 A. No I did not.

10 Q. In the absence of the directive coming from the
11 defendant, would you have made any of these contributions?

12 A. I would've probably made some.

13 Q. Would you have made them in the amounts of twenty-five
14 hundred dollars and twenty-six hundreds?

15 A. No.

16 Q. Okay. Since the program has ended have you made any
17 contributions to, for example McKinley?

18 MR. CARR: Objection. Relevance.

19 THE COURT: Sustained.

20 MR. DOUGLAS: Nothing further, Your Honor.

21 THE COURT: All right. Thank you.

22 Cross-examination?

23 MR. DOUGLAS: Should I retrieve the exhibits?

24 THE COURT: Yes, please.

25 THE COURT: You may proceed.

Grimm - Cross

1 MR. CARR: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. CARR:

4 Q. Mr. Grimm, can you tell me again how long you have been
5 involved in the coal industry?

6 A. About thirty-three years.

7 Q. And do you actually--during the time period that you
8 were at Mepco, 2010 to 2013, which office did you work in?

9 A. I worked out of the office at the mine site.

10 Q. Did you go underground?

11 A. Yes.

12 Q. And again your position title while you were at that
13 mine?

14 A. I started out as a superintendent and then I became vice
15 president for Pennsylvania Operations.

16 Q. As superintendent would it be correct for the jury to
17 understand, you oversee the entire mine operation?

18 A. Yes I did.

19 Q. Is it fair to say that you are very knowledgeable about
20 issues involving coal mining and the coal industry?

21 A. Yes.

22 Q. You were actually part of the Pennsylvania Coal
23 Association, is that correct?

24 A. Yes.

25 Q. And, again, I'm talking here about in the time period

Grimm - Cross

1 2010 to 2013 although you certainly still may be, but you
2 were a member of the Pennsylvania Coal Association, correct?

3 A. Yes. I was the company representative.

4 Q. And you knew that Jim was involved with the West
5 Virginia Coal Association?

6 A. Yes.

7 Q. Did you actually live up in Pennsylvania?

8 A. Yes.

9 Q. And I think you mentioned that part of the mine was in
10 Pennsylvania?

11 A. All of it was in Pennsylvania.

12 Q. The entire mine?

13 A. The entire mine.

14 Q. A lot of the employees and miners then also lived in
15 those congressional districts?

16 A. Our employees were from Pennsylvania and West Virginia.

17 Q. At least some of the miners lived in the various
18 congressional districts in Pennsylvania?

19 A. Yes.

20 Q. You were never--the requests for donations for certain
21 candidates and the amounts, those were never told to you
22 that they were mandatory, is that correct?

23 A. No.

24 Q. There were always suggestions made?

25 A. Yes.

Grimm - Cross

1 Q. And no one ever told you to hide the fact of what
2 this--what's been referred to as the second bonus, as to
3 what that was or what it was for?

4 A. No.

5 Q. And it was deposited--it being the second bonus, was
6 deposited into your account just like every other deposit
7 from Mepco?

8 A. Yes.

9 Q. And during that time period of 2010 to 2013 did you--was
10 all of your income coming from Mepco?

11 A. Yes.

12 Q. If I might ask that 1-51 be pulled up. I'm going to
13 retrieve--

14 THE COURT: You may. Did you find it?

15 MR. CARR: I apologize, Your Honor.

16 THE COURT: That's all right. I doubt anything up
17 there is chronological at this point--numerical, I should
18 say.

19 (Pause)

20 BY MR. CARR:

21 Q. This is the invite from Congressman Critz, is that
22 correct? If you can blow that up please. And you forwarded
23 that to Jim?

24 A. Yes.

25 Q. And Congressman Critz is from Pennsylvania, is that

Grimm - Cross

1 correct?

2 A. He was.

3 A. And he was running--he actually served one of the
4 congressional districts?

5 A. Yes.

6 Q. Is it accurate that you and Jim discussed which
7 candidates to support in Pennsylvania because you had more
8 familiarity with the elected officials than he did since you
9 were actually up living in and operating the mine in
10 Pennsylvania?

11 A. No.

12 Q. Why would that not be true?

13 A. Because I spent most of my time at the coal mine.

14 Q. Was it--let me separate the first part out then. Do you
15 recall having discussions with Jim in which he would talk to
16 you about your thoughts about which Pennsylvania officials
17 to be supported?

18 A. We would talk about different candidates, but as far as
19 support, we would talk about them and he would make the
20 final decision whether or not we would support them.

21 Q. I understand.

22 A. Okay.

23 Q. I very much understand the answer, Mr. Grimm, but he
24 would in fact ask for your input concerning candidates or
25 elected officials in Pennsylvania?

Grimm - Cross

1 A. I don't recall having that much really call input. If
2 the mine--I think the mine site was in Critz' district.

3 Q. If I could get 1-14 pulled up please. 1-14. Mr. Grimm,
4 do you actually remember this e-mail?

5 A. I've seen it but I don't remember exactly all the
6 particulars about it.

7 Q. And when you said you've seen it, have you seen it in
8 preparation for your testimony today?

9 A. Yes.

10 Q. Without having recently seeing the e-mail, do you have
11 an independent recollection of this e-mail?

12 A. No.

13 Q. Is it your understanding that you, based upon this
14 e-mail, that you believe that you delivered two checks for
15 Oliverio for Congress and two checks for McKinley for
16 Congress around July 17th of 2010?

17 A. It says I wrote--I had four checks written. I was going
18 to write four checks.

19 Q. Did you write those checks?

20 A. I'm sure I did.

21 Q. Would it surprise you to learn that Karen Hughes'
22 records for 2010 indicate that you did not give Oliverio any
23 money?

24 A. Yes.

25 Q. Do you have an independent recollection of giving

Grimm - Cross

1 Oliverio money?

2 A. I thought we did.

3 Q. Do you recall having discussions with Jim that you
4 wanted to support McKinley and not Oliverio?

5 A. When we had a--a meeting with the--those candidates came
6 in and they basically said what they stood for and several
7 of us afterwards talked about it and--and we didn't--we
8 didn't believe Oliverio would benefit our industry. I
9 mentioned that to Jim, as did some others.

10 Q. Are you aware that some executives then gave to Oliverio
11 and some didn't?

12 A. No.

13 Q. But you would be surprised if the records indicate you
14 did not give any money to Oliverio?

15 A. Yes, I would be.

16 Q. And again this was during the--just for the record, the
17 2010 time period. Mr. Grimm, Jim never indicated to you at
18 any time between 2010 and 2013 that there was anything
19 unlawful with the second bonus program, is that correct?

20 A. That is correct.

21 Q. And you never indicated to him that you had any reason
22 to believe that the second bonus program was unlawful?

23 A. I did not.

24 MR. CARR: A moment, Your Honor.

25 (Pause)

Grimm - Cross

1 MR. CARR: Nothing further at this time, Your
2 Honor. Returning Government Exhibit 52.

3 THE COURT: All right. Thank you. Is there any
4 redirect of the witness?

5 MR. DOUGLAS: No, Your Honor.

6 THE COURT: Thank you. Then Mr. Grimm, you're
7 excused as a witness and free to go unless either of the
8 parties wishes to hold him.

9 MR. DOUGLAS: Not the Government, Your Honor.

10 MR. CARR: No, Your Honor.

11 THE COURT: You're free to go.

12 (Witness excused)

13 THE COURT: And the Government may call its next
14 witness.

15 MR. DOUGLAS: The Government calls Christopher
16 Stecher.

17 THE COURT: Christopher Stecher?

18 MR. DOUGLAS: Yes, Your Honor.

19 THE COURT: Okay. Ladies and Gentlemen, we'll be
20 taking a midafternoon recess after this witness. If any of
21 you need a seventh inning stretch right now, please feel
22 free to stand up and stretch while we're waiting for the
23 witness. It's gotten a bit warm in here, hasn't it? Yes.
24 We'll try to do--I told you. We'll try to do something
25 about that.

Stecher - Direct

1 (Pause)

2 THE COURT: Mr. Stecher, good afternoon. Please
3 approach the Clerk, the standing in front of me with the
4 gray suit on. She will administer the oath to you before
5 you take the witness stand.

6 CHRISTOPHER STECHER, GOVERNMENT'S WITNESS, SWORN

7 THE CLERK: Thank you. Have a seat in the witness
8 stand. The witness is Christopher Stecher, S-t-e-c-h-e-r.

9 THE COURT: All right, Mr. Stecher, if you'll
10 answer in a loud, clear voice and you may certainly move
11 that microphone around to meet your needs in speaking into
12 it clearly. Thank you.

13 THE WITNESS: Thank you.

14 DIRECT EXAMINATION

15 BY MR. DOUGLAS:

16 Q. Sir, please state your name?

17 A. Christopher Stecher.

18 Q. At some point did you work for Mepco and the defendant
19 Jimmy Laurita?

20 A. Yes I did.

21 Q. During what time frame did you work for Mepco?

22 A. From 2006 through 2012.

23 Q. And during your time at Mepco was there a time when you
24 began to make political campaign contributions?

25 A. Yes there was.

Stecher - Direct

1 Q. How did that start?

2 A. Through several conversations we were told that we would
3 start getting bonuses in order to make campaign
4 contributions.

5 Q. And when you say we were told, who was telling?

6 A. It was basically Jimmy.

7 Q. The defendant?

8 A. Yes. James Laurita.

9 Q. Okay. And at that time had you made a political
10 contribution before?

11 A. Never.

12 Q. And was it your understanding that spouses were going to
13 be asked to contribute as well?

14 A. Yes.

15 Q. Had your wife ever made a contribution before at that
16 time?

17 A. No.

18 Q. So generally how would you know to which candidate and
19 how much and if your wife would be asked to contribute?

20 A. Sometimes we would have a meeting where of--we would
21 have a meeting where we would discuss it or sometimes I
22 would receive an e-mail that had the names and the amount of
23 money.

24 Q. And if you received an e-mail that had the information,
25 from whom would you be receiving that e-mail?

Stecher - Direct

1 A. Generally Karen Hughes.

2 Q. Okay. And once you either wrote a check or your wife
3 wrote the check or you filled out a credit card form, what
4 would you do with that contribution?

5 A. Most of the time give it to Karen Hughes. Occasionally
6 we would have a slip where we had our credit card
7 information on it, we would mail it to the candidate's
8 office.

9 Q. And did you have any understanding as to whether Karen
10 Hughes was also keeping track in some way of the
11 contributions?

12 A. Yes she was.

13 MR. DOUGLAS: May I approach the witness, Your
14 Honor?

15 THE COURT: Yes.

16 BY MR. DOUGLAS:

17 Q. I'm handing you two exhibits, Government Exhibit 4 and
18 Government Exhibit 5. Okay. Would you please start taking
19 a look at Government Exhibit 4? Could you generally
20 identify what Government Exhibit 4 is made up of?

21 A. The first page is a wife--is a check written by my wife
22 for the McKinley campaign.

23 Q. You don't need to identify anything specific about it.

24 A. Oh, okay. It's a check to the McKinley campaign and the
25 remaining items are copies of credit card billing slips.

Stecher - Direct

1 Q. Okay. And do they relate to this contribution program
2 we've been discussing?

3 A. Yes they do.

4 MR. DOUGLAS: All right. We move to admit
5 Government Exhibit 4.

6 THE COURT: Any objection?

7 MR. CARR: No, Your Honor.

8 THE COURT: The Court admits Government Exhibit 4.
9 (Government Exhibit 4 admitted.)

10 BY MR. DOUGLAS:

11 Q. We're going to bring up on your computer screen there
12 Government Exhibit 4, the first page and we're going to
13 enlarge that for you. What does page one of Exhibit 4
14 depict?

15 A. This is a check written by my wife, Patricia
16 Rodriquez-Sanabia on March 10, 2010 to McKinley for Congress
17 for five hundred dollars, a political contribution.

18 Q. Did you ask your wife to write that check?

19 A. Yes I did.

20 Q. Did someone ask you to ask your wife to write that
21 check?

22 A. Yes. It was part--part of us making the contributions,
23 she and I.

24 Q. Okay. Now--and I don't want to go through each of these
25 credit card statements, okay, but I'm just going to ask you

Stecher - Direct

1 generally if there are transactions in there noting
2 particular campaign committees, would that be part of the
3 program we've been discussing?

4 A. Yes it would.

5 Q. Okay. Now I would like you to look at Government
6 Exhibit 5 please and just leaf through it and tell us
7 generally what Government Exhibit 5 consists of. Are these
8 monthly statements from your checking account?

9 A. Up to now, yes, they all are. I've got three more pages
10 to look at. Four more. Yes. These are personal credit
11 card statements on my bank account with BB&T.

12 Q. Okay. You said credit card statements but this is a
13 checking account, isn't it?

14 A. Oh, I'm sorry. I misspoke. I misspoke. I apologize.
15 These are bank statements with BB&T.

16 MR. DOUGLAS: All right. We move to admit
17 Government Exhibit 5.

18 THE COURT: Is there any objection to the admission
19 of Government Exhibit 5?

20 MR. CARR: No, Your Honor.

21 THE COURT: The Court admits the exhibit. Thank
22 you.

23 (Government Exhibit 5 admitted.)

24 BY MR. DOUGLAS:

25 Q. Now we're going to bring up page one on your screen

Stecher - Direct

1 there and I'm going to ask that the top left corner be
2 enlarged. Can you tell us the date of this statement
3 please?

4 A. Yes, March 24th, 2010.

5 Q. And now I'm going to have page two of this exhibit,
6 Exhibit 5 brought up and the top enlarged--I mean, no, I'm
7 sorry. You were enlarging the correct--and I want you to
8 look--draw your attention to March 9 payroll deposit eleven
9 thousand four hundred and seventy-three dollars. What does
10 that deposit represent?

11 A. That represents a bonus paid to me for the contribution
12 program.

13 Q. Now in general with regard to your pay that comes in
14 from payroll at Mepco, does it typically consist of two
15 salary payments, a tonnage bonus, right?

16 A. That's correct.

17 Q. Okay. And now if there is another deposit, especially
18 in large amounts, do those relate to the contribution
19 program we've been discussing?

20 A. Yes they would be larger than what my pay and my--my
21 paycheck was and also my bonus check, core bonus.

22 Q. All the contributions that were made during this program
23 by either you or your wife, were they made at the direction
24 of the defendant?

25 A. Yes.

Stecher - Cross

1 Q. And if you weren't receiving the direction from the
2 defendant would you have made any of these contributions,
3 both in the exhibits and the ones that are outside the
4 exhibits?

5 A. No.

6 MR. DOUGLAS: One moment, Your Honor?

7 THE COURT: Yes.

8 (Pause)

9 MR. DOUGLAS: Nothing further, Your Honor.

10 THE COURT: All right. Cross-examination?

11 MR. CARR: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. CARR:

14 Q. Sir, would I be correct that all of your income, or the
15 vast majority of it, came from Mepco?

16 A. No, you would not.

17 Q. There were some other deposits. You had another source
18 of income?

19 A. Yes, I did.

20 Q. A significant portion of it though was paychecks from
21 Mepco?

22 A. Would you please define significant?

23 Q. How about just some of it?

24 A. That would work. Yes.

25 Q. The--and all that money that came from Mepco was

Stecher - Cross

1 deposited into that checking account which you have just
2 reviewed the records?

3 A. Yes. Self-deposits. I mean automatic deposits.

4 Q. All in exactly the same way?

5 A. Yes.

6 Q. No one ever--Jim Laurita never told you, nor Karen, nor
7 Suzanne Crane, that the donations were mandatory. They were
8 always suggested, is that correct?

9 A. That's correct.

10 Q. And you never disagreed with making any of the
11 contributions?

12 A. No I did not.

13 Q. Jim Laurita never gave you any indication from 2010 to
14 2013 that there was anything unlawful with the program?

15 A. No he did not.

16 Q. Never told you to deny it, hide it, nothing?

17 A. No he did not.

18 Q. And you did not give Jim Laurita any indication that you
19 thought there was anything wrong with it?

20 A. No I did not.

21 Q. And I just want to clarify because we looked at bank
22 statements which appeared to have deposits and we only
23 looked at those in which there appeared to be one for the
24 second bonus. Would it be accurate that you received three
25 of those in 2010, two in 2011 and one in 2012? Does that

Stecher - Cross

1 sound about right?

2 A. I can't say for certain. I think it does but not
3 absolute.

4 Q. Well--go ahead. I didn't mean to interrupt you.

5 A. I'm just not--I can't be absolutely certain.

6 Q. You certainly didn't receive one every month?

7 A. No.

8 MR. CARR: Nothing further, Your Honor.

9 THE COURT: Redirect?

10 MR. DOUGLAS: No, Your Honor.

11 THE COURT: All right. Is the witness subject to
12 recall?

13 MR. DOUGLAS: Not by the Government, Your Honor.

14 MR. CARR: No, Your Honor.

15 THE COURT: Okay. Thank you, sir, you may step
16 down. You're excused as a witness and free to go.

17 (Witness excused)

18 THE COURT: All right, Ladies and Gentlemen, I
19 promised you an afternoon recess so as soon as the witness
20 is able to leave the courtroom we'll excuse.

21 Mr. Stecher, I'd advise coming through the middle here
22 to get out and you can leave the exhibits right there and
23 Mr. Douglas will take care of that. Thank you.

24 All right. Ladies and Gentlemen, let's take
25 approximately a fifteen minute recess during which you are

1 not to discuss the case among yourselves or with anyone with
2 whom you have contact. We'll see if we can't get the
3 temperature adjusted in here and maybe you all can get some
4 caffeine. And we'll at a quarter till three, 2:45. Okay.

5 Remember don't discuss the case among yourselves.
6 Please leave your notebooks face down on your chairs and I
7 do thank you for your patience and attention.

8 (Jury out 2:29 p.m.)

9 THE COURT: Mr. Douglas, old habits die hard. All
10 right. I want you to pay attention to Alternate Number One
11 because she's really struggling to stay awake. She's trying
12 mightily. She's the lady who works at night and I don't
13 know. I'm going to see what we can do about the temperature
14 but you know you might try to redirect some of the questions
15 in a way that brings her back. I haven't seen her just go
16 out completely but I've seen her struggle all afternoon.

17 MR. CARR: Respectfully, Your Honor, I believe
18 there's two others that fall in that category.

19 THE COURT: Well I thought--I thought Juror Number
20 Five resurrected and came back to--pretty alert. Is there
21 another one I missed?

22 MR. CARR: There appeared to also be another one in
23 the front row, Your Honor. I certainly understand the
24 struggle but I just wanted to respectfully inform the Court.

25 THE COURT: Okay. So we've got two in the back row

1 and Juror Number Eleven in the front row. Well, I'll make
2 them take a seventh inning stretch if I see it happening
3 again. Right now Juror Number Five I think was off very
4 briefly but came right back and I didn't see him fall asleep
5 after that, did you?

6 MR. CARR: Not after that, Your Honor.

7 THE COURT: Okay. And then as I said Alternate
8 Number One is awake but she's really moving around trying to
9 stay awake.

10 MR. CARR: Your Honor, if I could just ask. I know
11 this doesn't come up very often, but what is the proper way
12 if counsel were to notice that, not wanting to draw
13 attention to it, but--

14 THE COURT: You have to let me know.

15 MR. CARR: How--

16 THE COURT: My staff is watching. They're sending
17 me notes but they--I'm not going to notice it every time and
18 you need to make sure that if you think this is impairing
19 the trial in any way that you let me know. Where we can't
20 keep someone awake, I've had to excuse them.

21 MR. CARR: Yes, Your Honor.

22 THE COURT: We have four alternates and--but I
23 really think it's in major part this afternoon due to the
24 temperature here in the courtroom which has grown quite
25 warm.

Lafferty - Direct

1 MR. CARR: Yes, Your Honor.

2 THE COURT: Okay. Thank you. Court stands in
3 recess until two forty-five.

4 (Recess from 2:30 p.m., until 2:45 p.m.)

5 THE COURT: Thank you. Please be seated. We can
6 bring the jury in. By the way, we think Juror Number Five
7 is taking notes. Depending on his perspective, he's--he's
8 awake. He's attentive.

9 (Jury in 2:47 p.m.)

10 THE COURT: You can be seated. Welcome back,
11 Ladies and Gentlemen. We are ready to resume with the
12 Government's next witness. Is that Mr. Douglas? Okay.

13 MR. DOUGLAS: United States calls James Lafferty.

14 THE COURT: James Lafferty.

15 JAMES LAFFERTY, GOVERNMENT'S WITNESS, SWORN

16 THE CLERK: Thank you. Please have a seat in the
17 witness stand. The witness is James Lafferty,
18 L-a-f-f-e-r-t-y.

19 THE COURT: I don't think I have to tell you what
20 to do, Mr. Lafferty. You've heard it for two days. So
21 there you go. Okay. You may proceed, Mr. Douglas.

22 DIRECT EXAMINATION

23 BY MR. DOUGLAS:

24 Q. Agent Lafferty, please introduce yourself to the jury.

25 A. My name is Jim Lafferty. I'm a Special Agent with the

Lafferty - Direct

1 FBI.

2 Q. How long have you been a Special Agent with the FBI?

3 A. A little over fifteen years.

4 Q. And what type of training do you have to complete before
5 you become a Special Agent with the FBI?

6 A. At the time it was four months of training in Quantico,
7 Virginia and I did that back in 2002.

8 Q. Prior to joining the FBI, what were you doing?

9 A. I worked for an accounting firm in Charleston, West
10 Virginia. I was a CPA.

11 Q. Okay. What's a CPA?

12 A. Certified Public Accountant.

13 Q. And then finally what is your education?

14 A. I graduated with a Bachelor's in Business Administration
15 with an emphasis in Accounting from West Virginia
16 University.

17 Q. Does the FBI investigate campaign finance offenses and
18 false statement offenses?

19 A. Yes.

20 Q. Now while you were in the FBI Academy training, did you
21 receive training on white collar crime investigations?

22 A. Yes I did.

23 Q. What type of training did that include?

24 A. It includes training on the familiarity of the law, as
25 well as different techniques we can use to investigate white

Lafferty - Direct

1 collar crime cases.

2 Q. Okay. And then once you finished the Academy, have you
3 continued any education with regard to your Certified Public
4 Accountant license?

5 A. Yes.

6 Q. What kind of training does that include?

7 A. Every year annually the FBI puts on training for its CPA
8 agents--individuals who have their CPA license who are also
9 agents so every year I receive training from the Bureau
10 related to white collar crimes and other matters that we
11 might investigate.

12 Q. Did that CPA training include any training regarding
13 campaign finance?

14 A. Yes.

15 Q. What kind of training did that include?

16 A. Throughout the years, not every year, but throughout the
17 years we would get information on updates on the law as well
18 as case specific information where other agents would come
19 in and discuss with us how they investigated their cases and
20 things they did right and things they did wrong in there
21 investigations.

22 MR. CARR: Your Honor, may I have a moment please?

23 THE COURT: Yes.

24 (Pause)

25 MR. CARR: Thank you, Your Honor.

Lafferty - Direct

1 THE COURT: All right.

2 BY MR. DOUGLAS:

3 Q. And while at the FBI have you focused on a particular
4 type or set of cases?

5 A. Yes.

6 Q. What has that focus been?

7 A. Primarily white collar crime the first five years--the
8 first five years of my career I focused more on financial
9 crimes, primarily Ponzi schemes but in the last ten years
10 more public corruption and other white collar crime matters
11 as opposed to financial matters.

12 Q. And was it during this last ten years that you had some
13 experience with campaign finance investigations?

14 A. Yes.

15 Q. Now in your capacity as an FBI agent have you been part
16 of an investigation involving campaign donations at Mepco?

17 A. Yes.

18 Q. How did you receive this investigation?

19 MR. CARR: Objection, Your Honor. Relevance.

20 THE COURT: I'm not sure I see it. Why is that
21 relevant, other than that it's background?

22 MR. DOUGLAS: Just a little bit of background we're
23 trying to give--

24 THE COURT: I think we can move on.

25 MR. DOUGLAS: Okay.

Lafferty - Direct

1 BY MR. DOUGLAS:

2 Q. Keeping it general, what type of investigative
3 techniques did you perform in this case?

4 MR. CARR: Objection, Your Honor. Again,
5 respectfully, at this point in the trial I question the
6 relevancy of this testimony. I certainly understand--if I
7 can just briefly continue, Your Honor. I don't like talking
8 objections. I know the Court doesn't. I certainly
9 understand that the Government intends to bring in some
10 documents through Agent Lafferty. We have no issue with
11 that but I'm not quite sure where counsel is going with how
12 the investigation was conducted.

13 MR. DOUGLAS: Just a very brief explanation of
14 where the documents came from.

15 THE COURT: Well I think if we can limit it to
16 that, that's fine.

17 MR. DOUGLAS: Yes, Your Honor.

18 THE COURT: All right.

19 MR. DOUGLAS: I'll just go ahead--may I approach
20 the--

21 THE COURT: And actually, in order to remain
22 focused, you could lead briefly through that so it doesn't
23 get far afield.

24 MR. DOUGLAS: Okay.

25 THE COURT: I assume there's no objection to that,

Lafferty - Direct

1 Mr. Carr.

2 MR. CARR: Absolutely not, Your Honor.

3 THE COURT: All right. Thank you.

4 BY MR. DOUGLAS:

5 Q. Has your gathering of evidence included e-mail
6 correspondence?

7 A. Yes.

8 Q. Including to and from the defendant?

9 A. Yes. We obtained e-mails from Mepco.

10 Q. Has your gathering of evidence included records of the
11 personal contributions of the defendant?

12 A. Yes.

13 Q. Has the gathering of evidence included certain corporate
14 records regarding Mepco?

15 A. Yes.

16 Q. And then has your evidence gathering included these FEC
17 reports, reports filed with FEC from certain campaigns?

18 A. Yes, that's correct.

19 MR. DOUGLAS: Okay. Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 BY MR. DOUGLAS:

23 Q. I'm handing you a stack of exhibits and part of that
24 stack is clipped together, if we could start with it and
25 that's going to be--that is 1-2, 1-5, 1-16, 1-17, 1-24,

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1 1-38, 1-50, 1-52, 1-53, 1-54, 1-64, 1-68, 1-80, 1-90, 1-107,
2 1-139 and finally 1-140. Is that correct?

3 A. Yes.

4 Q. Generally are those e-mails to and from the defendant on
5 his Mepco account?

6 A. That's correct.

7 MR. DOUGLAS: We move to admit those exhibits.

8 THE COURT: Is there any objection to the exhibits
9 that the witness has just reviewed?

10 MR. CARR: No, Your Honor.

11 THE COURT: All right. Then the Court admits the
12 following exhibits, Ladies and Gentlemen. United States
13 Exhibit 1-2, 1-5, 1-16, 1-17, 1-24 1-38, 1-50, 1-52, 1-53,
14 1-54, 1-64, 1-68, 1-80, 1-90, 1-107, 1-139 and 1-140.

15 MR. DOUGLAS: Thank you, Your Honor.

16 (Government Exhibits 1-2, 1-5, 1-16, 1-17, 1-24, 1-38,
17 1-50, 1-52, 1-53, 1-54, 1-64, 1-68, 1-80, 1-90, 1-107,
18 1-139, 1-140 admitted.)

19 BY MR. DOUGLAS:

20 Q. Now I want to ask you to look at 18 and 18-1 please,
21 should be the next two exhibits.

22 A. Okay.

23 Q. And first of all, what is Government's Exhibit 18
24 generally?

25 A. These are checks written by Mr. Laurita to different

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1 campaigns.

2 Q. And does it also include in some instances contribution
3 forms completed with those contributions?

4 A. Yes.

5 Q. And is 18-1 just a separate contribution form from 18,
6 just made a separate exhibit, 18-8?

7 A. I'm sorry. Are you asking about 18-8?

8 Q. Yes, sir.

9 A. That's correct.

10 MR. DOUGLAS: We move to admit Government's Exhibit
11 18 and 18-8.

12 THE COURT: Is there any objection?

13 MR. CARR: No, Your Honor.

14 THE COURT: The Court admits Government Exhibit 18
15 and Government Exhibit 18-8.

16 (Government Exhibit 18 and 18-8 admitted.)

17 BY MR. DOUGLAS:

18 Q. I'd like to bring up 18-8 and enlarge the payment
19 information section. I'm just going to ask the jury to read
20 that, starting with please check here.

21 A. Are you asking me to read it?

22 Q. No, I'm asking the jury just to take a moment to read
23 after please check here to themselves. And I'm going to ask
24 you, Agent Lafferty, is 18-8 something you obtained--a
25 record you obtained from this Tom Smith campaign?

Lafferty - Direct

1 A. It is.

2 Q. Okay. Could we bring that down? Now I would like you
3 to please take a look at Exhibit 41 and Exhibit 43 please.

4 A. Okay.

5 Q. Are these organizational records with regard to Mepco
6 and its affiliates?

7 A. They are.

8 Q. Is Exhibit 41 an organizational chart from the
9 bankruptcy petition of August 30, 2013?

10 A. Yes.

11 Q. And is Exhibit 43 records obtained from the West
12 Virginia Secretary of State with regard to Mepco LLC's
13 organization?

14 A. Yes.

15 MR. DOUGLAS: We move to admit Government's Exhibit
16 41 and 43.

17 THE COURT: Is there any objection?

18 MR. CARR: No, Your Honor.

19 THE COURT: All right. Government Exhibit 41 is
20 admitted and Government Exhibit 43 is admitted. As to 41,
21 that is the organizational chart?

22 MR. DOUGLAS: Yes, Your Honor.

23 THE COURT: Okay. You added something about the
24 bankruptcy records. Is that--you're just saying that's
25 where you obtained that?

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1 MR. DOUGLAS: That's where the agent obtained it,
2 yes, Your Honor.

3 THE COURT: But that's not the bankruptcy file or
4 anything like that?

5 MR. DOUGLAS: It is only a single page exhibit of
6 the chart from the petition.

7 THE COURT: Okay.

8 (Government Exhibit 41 and 43 admitted.)

9 BY MR. DOUGLAS:

10 Q. Now throughout your training and experience have you
11 learned about the Federal Election Commission?

12 A. Yes.

13 Q. What is the Federal Election Commission?

14 A. It was established to primarily regulate federal
15 election campaign. There was a Federal Election Campaign
16 Act of 1971 that was passed. This FEC was established to
17 help regulate that Act.

18 Q. Is the Federal Election Commission an agency or
19 department of the United States government?

20 A. Yes.

21 Q. Do you have awareness as to the FEC's responsibilities
22 as an agency through your training and experience?

23 A. Yes.

24 Q. And what are those responsibilities?

25 A. Well, they compile the data from the different federal

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1 campaigns, the contributions that are being made to those
2 campaigns, the expenses those campaigns are making. They
3 compile that data that they get from the different campaigns
4 and they publish that information publicly to anyone who
5 wants to view it.

6 Q. Now I would like you to please take a look at the
7 remaining exhibits which are Government Exhibits 20, 22, 24,
8 26, 28, 30, 32, 34, 36 and 38 and if you could generally
9 identify what those exhibits are please.

10 A. These are the different FEC forms filed by the
11 candidates that are in question here in this case.

12 Q. And are these every FEC form--

13 THE COURT: Wait a minute. I'm sorry. Okay. The
14 Court Reporter's computer just locked up so let's take just
15 a couple of minutes to let her fix it.

16 (OFF THE RECORD)

17 (ON THE RECORD)

18 THE COURT: All right. We're back on the record.
19 You may proceed.

20 BY MR. DOUGLAS:

21 Q. Your Honor, I was just asking the Agent to identify what
22 22, 24, 26, 28, 30, 32, 34, 36 and 38 are.

23 A. These are forms submitted by the different campaigns to
24 the Federal Election Commission.

25 Q. And is this exhaustive as to the program or is this just

Lafferty - Direct

1 some of them?

2 A. Just some of them.

3 Q. And are these the full reports as in everyone who gave
4 or are these abbreviated to include only the pages that
5 include contributions in the names of the executives?

6 A. They are abbreviated.

7 MR. DOUGLAS: We move to admit those Government's
8 exhibits.

9 THE COURT: Is there any objection?

10 MR. CARR: No, Your Honor.

11 THE COURT: All right. Then the Court
12 admits Government's Exhibits 20, 22, 24, 26, 28, 30, 32, 34,
13 36 and 38.

14 (Government's Exhibits 20, 22, 24, 26, 28, 30, 32, 34,
15 36 and 38 admitted.)

16 BY MR. DOUGLAS:

17 Q. Do you have an understanding of the term designated
18 campaign committee?

19 A. Yes.

20 Q. And all of those exhibits we just discussed and were
21 admitted, are those the designated campaign committees for
22 those various federal candidates?

23 A. Correct. You would not write a check to Senator Joe
24 Manchin. You would write a check to the campaign
25 organization formed to take contributions on his behalf.

Lafferty - Direct

1 Q. Okay. If we could bring up please Government's Exhibit
2 38 and I'm just going to have you describe very generally
3 what we're looking at and the different components of an FEC
4 report. If we could enlarge the top half of 38. So do you
5 see where it says FEC form 3?

6 A. Yes.

7 Q. Does that mean it's a federal government form?

8 A. Yes.

9 Q. They're not various types of this out there? There's a
10 Government issued form?

11 A. That's correct.

12 Q. Okay. And then there's a section for the name of
13 committee here and this one lists Capito for West Virginia?

14 A. Correct.

15 Q. Okay. And then do you see a section called type of
16 report? What type of report is the one that we are looking
17 at? I'm sorry, we're going to need to enlarge another
18 section, if we could take that down and enlarge the middle
19 part. Now I'm sorry. We're looking at number four, type of
20 report. What type of report is the one that we are looking
21 at?

22 A. It's the July 15th quarterly report, the second quarter
23 of the year.

24 Q. Okay. So is it your understanding that campaign
25 committees are to--are required to submit these reports for

Lafferty - Direct

1 these quarters?

2 A. Correct.

3 Q. Okay. And are all the exhibits that we had admitted as
4 FEC reports, quarterly reports?

5 A. Yes.

6 Q. Okay. And if we could take that down please and bring
7 up the rest of the page one of Exhibit 38. And you see
8 number five here, covering period, what does that mean?

9 A. That means that the information contained in this
10 particular report will cover that time period for the--for
11 the campaign.

12 Q. Does that mean that this report consists of information
13 regarding contributions made during that time frame?

14 A. Correct.

15 Q. Okay. And then you see here a typed name and a
16 signature of a Reed Spangler. What position did Reed
17 Spangler have with the Capito for West Virginia committee?

18 A. He was the treasurer.

19 Q. And is that common--do you see how it says signature of
20 treasurer that it's the treasurer who was submitting these
21 FEC form 3's?

22 A. It's common in the documents that I reviewed in this
23 case.

24 Q. Okay. And could you read the part that says I certify
25 above his name?

Lafferty - Direct

1 A. I certify that I have examined this report and to the
2 best of my knowledge and belief it is true, correct and
3 complete.

4 Q. And do you see that type of language in false statement
5 cases that you investigate?

6 A. Yes.

7 Q. Certification that something is true?

8 A. That's correct.

9 Q. Okay. And you see down here at the bottom it further
10 says the submission of false information could lead to
11 penalties?

12 A. Yes.

13 Q. Okay. Now let's just take a look at example of the
14 content of these reports. Let's look at page four please.
15 If we can bring up the second and third contribution
16 information sections, there down. So is this an example of
17 a contribution made in the names of Karen and Mark Hughes
18 and how it appears in this report?

19 A. Yes.

20 Q. And what type of information is included in these
21 reports for each contribution?

22 A. The name of the person making the contribution, the
23 address of the person, where the person's employed, as well
24 as there's a different section for the occupation and then
25 the amount they provided and the date they made that

Lafferty - Direct

1 contribution.

2 Q. Okay. So then let's look at page six of Exhibit 38
3 please, and enlarge just the top contribution please. So
4 then this is for Dawn O'Dell. Who's Dawn O'Dell?

5 A. That's Mr. O'Dell's wife.

6 Q. And you see the information listed for her name of
7 employer and occupation. What does it say?

8 A. Mon County is the name of the employer. Occupation
9 fitness instructor.

10 Q. Okay. Then are you saying--from earlier you said in
11 general the FEC is going to take this information and
12 publish it to the public. Is this information we were
13 talking about, they would take Dawn O'Dell and publish this
14 to the public as if she made this contribution for
15 twenty-six hundred dollars?

16 A. That's correct.

17 MR. DOUGLAS: One moment, Your Honor, please.

18 THE COURT: Yes.

19 (Pause)

20 MR. DOUGLAS: Nothing further, Your Honor.

21 THE COURT: All right. Thank you.

22 Cross-examination?

23 (Pause)

24 MR. CARR: Thank you, Your Honor. I apologize.

25 CROSS EXAMINATION

Lafferty - Cross

1 BY MR. CARR:

2 Q. If we could pull up Government Exhibit 41 and
3 specifically put a square around the name James Lafferty. A
4 little bit higher please. Perfect. Agent Lafferty,
5 Government Exhibit 41 was the organizational chart, is that
6 correct?

7 A. Correct.

8 Q. And it's my understanding--you've been at counsel table
9 all week so I feel like I can ask you this--the Government's
10 counsel table, the purpose of putting this organizational
11 chart in is to show the organizational relationship between
12 Mepco and the other entities that have been testified to, is
13 that correct?

14 A. Correct.

15 Q. There are certain percentages and things like Class A
16 and there's also some Class B interests that are on this
17 document. Is that correct?

18 A. Correct.

19 Q. You see those?

20 A. Yes.

21 Q. You did not independently investigate or confirm and do
22 not attest to the accuracy of those numbers, is that
23 correct?

24 A. Other than the--to answer your question fully, other
25 than the organization of Mepco, no.

Lafferty - Cross

1 Q. Could you repeat your answer for me please?

2 A. Sure. Other than investigation I did of Mepco and it's
3 incorporation, no.

4 Q. But as far as percentage ownership interests of various
5 entities for other various entities you did not do any
6 investigation of that?

7 A. No.

8 Q. And you could not attest to the accuracy of that?

9 A. Correct.

10 Q. Or if there might have been previous percentages for any
11 entity as far as ownership of another or if amended
12 bankruptcy filing was filed which changed those numbers?

13 A. Correct.

14 Q. Agent Lafferty, as part of your investigation, did you
15 attempt to interview James Laurita?

16 A. No.

17 MR. CARR: No further questions, Your Honor.

18 THE COURT: Any redirect?

19 MR. DOUGLAS: No, Your Honor.

20 THE COURT: All right. Agent Lafferty, you may
21 step down and return to your seat.

22 (Witness excused from stand)

23 THE COURT: And the Government may call its next
24 witness.

25 MR. DOUGLAS: United States calls William Raney.

Polce - Direct

1 THE COURT: All right. Mr. Raney.

2 (Pause)

3 MR. DOUGLAS: I'm sorry, Your Honor. Mr. Raney is
4 not here but another witness is.

5 THE COURT: Oh, I see, all right.

6 MR. BERNARD: It looks like we're calling Steven
7 Polce, Your Honor.

8 THE COURT: Steven Polce. All right.

9 MR. DOUGLAS: May I retrieve the exhibits, Your
10 Honor? I'm sorry.

11 THE COURT: Please do. Thank you.

12 (Pause)

13 THE COURT: Sir, if you'll please approach the
14 Clerk here in the front of the courtroom and I would suggest
15 you weave your way through the middle here. They you go and
16 then here to the Clerk. She will ask you to raise your
17 right hand and she'll administer the oath to you once you
18 do. Thank you.

19 STEVEN POLCE, GOVERNMENT'S WITNESS, SWORN

20 THE CLERK: Thank you. You may have a seat in the
21 witness stand. The witness is Steven Polce, P-o-l-c-e.

22 THE COURT: You may proceed, Mr. Bernard.

23 MR. BERNARD: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. BERNARD:

Polce - Direct

1 Q. Good afternoon, sir. Could you briefly describe to the
2 jury your background, employment, where you live, what
3 you're doing right now, just a little bit about yourself?

4 A. Right now I'm unemployed. I'm retired. I worked
5 forty-two years in the coal industry, various places. I
6 started at Consol, went to Matika, Preston Energy, Mepco and
7 finished up--well it would be Mepco with Longview.

8 Q. Okay. Let's talk about Mepco specifically. When did
9 you begin your employment with Mepco?

10 A. I think 2004.

11 Q. Okay. And what was--what was your position?

12 A. I was hired as a mine superintendent.

13 Q. Who hired you?

14 A. Mr. Laurita.

15 Q. Okay. Which Mr. Laurita?

16 A. Jim Junior.

17 Q. The defendant in this case?

18 A. Yes.

19 Q. And again, you said you were a mine superintendent, was
20 that at Prime?

21 A. Yes, sir.

22 Q. Did you--did your position change throughout the years
23 at Mepco?

24 A. Yes, I was promoted to vice president.

25 Q. Vice president of what?

Polce - Direct

1 A. Mepco, Dana Mining--Dana Mining of West Virginia.

2 Q. What were your duties when you were vice president?

3 A. Basically the same. We run the Prime Mine and also was
4 putting in a new mine in Harrison County called Arco. We
5 was putting a new mine in there.

6 Q. So you were one of the VPs at the mines, running the
7 mine operations?

8 A. Yes.

9 Q. Is there a time while at Mepco that you were approached
10 about engaging in political contributions?

11 A. Yes.

12 Q. How did that come up?

13 A. I just really don't recall at all but I know that we had
14 a meeting that we were asked to donate money to politicians.

15 Q. Okay. Let's break that down. You said you had a
16 meeting?

17 A. Yes.

18 Q. With whom?

19 A. Jim Junior.

20 Q. Who called the meeting?

21 A. I believe Jim Junior did.

22 Q. And who was at that meeting?

23 A. I know I was and some of the other VPs of the operation,
24 managers of the--I don't know if they was all there or not
25 but I know there was a few of us there.

Polce - Direct

1 Q. Okay. And specifically what did the defendant tell you
2 about this--this plan for political contributions?

3 A. We wanted to help the coal industry the best we could
4 and that we would donate money to them but we would be
5 reimbursed for the money we paid.

6 Q. Okay. Was that important to you?

7 A. Very.

8 Q. Why?

9 A. Because I wouldn't donate it if I wasn't getting
10 reimbursed.

11 Q. Okay. Had you ever made a political contribution before
12 the Mepco--

13 A. Not that I can recall, no.

14 Q. What about your wife, had she had ever made a political
15 contribution prior to the Mepco program so to speak?

16 A. Not that I'm aware of.

17 Q. During the meeting did you receive any instructions
18 from--from the defendant as to whom you should discuss this
19 program with or whether you should keep it amongst
20 yourselves?

21 A. Basically everything we had in there we kept everything
22 to ourselves. I know I did personally.

23 Q. Now after that meeting how did you get involved with the
24 actual contributions? What happened?

25 A. We would be instructed who to donate to.

Polce - Direct

1 Q. Who would instruct you?

2 A. I would either get it via e-mail or a letter or
3 whatever.

4 Q. Okay. I guess when I say who, what individuals would
5 tell you or give you the information?

6 A. Mrs. Hughes would give me information. Latter part of
7 the time would be Suzanne Crane, I believe her last name is
8 Crane and I would have--Mr. Clark would drop stuff off at my
9 office.

10 Q. Do you know or do you have an understanding who
11 ultimately was providing the direction to those individuals?

12 A. I assume Jim Junior.

13 Q. Why do you assume?

14 A. Because it was his program the way I looked at it.

15 Q. You weren't independently deciding who to contribute to?

16 A. No, sir.

17 Q. Did you--you indicated that you would not have made
18 contributions but for the reimbursements?

19 A. No, sir, I wouldn't have.

20 Q. Did you raise an objection or say, hey, I don't want to
21 do this?

22 A. No, sir.

23 Q. Why not?

24 A. I really don't know that answer. I would--I always had
25 faith in Jim Junior. I worked for him. He's never steered

Polce - Direct

1 me wrong and I went with what the man had to say.

2 Q. You trusted him?

3 A. Yes, sir.

4 Q. And he hired you?

5 A. Yes, sir.

6 Q. He's the one that promoted you?

7 A. Yes, sir.

8 Q. He could also demote you?

9 A. Yes, sir.

10 Q. He could also fire you?

11 A. Yes, sir.

12 Q. Now when you received instructions from Ms. Hughes and
13 the others, what--what specific information did you receive
14 from them, and I'm talking about political contributions?

15 A. That maybe we're going to donate to such and such a
16 candidate on this day; we need the money by Friday or
17 Thursday or whatever.

18 Q. And let me back up just briefly. With respect to this
19 program was it apparent to you that Mr. Laurita, the
20 defendant, was aware that you were being reimbursed?

21 MR. CARR: Objection, Your Honor. Relevance.

22 MR. BERNARD: It's a conduit contribution case,
23 Your Honor.

24 THE COURT: Yeah. I'll allow it. Overruled.

25 BY MR. BERNARD:

Polce - Direct

1 Q. What was your answer?

2 A. And the question again, sir?

3 Q. Based on your understanding, did you know whether
4 Mr. Laurita was aware that you were being reimbursed for the
5 contributions?

6 A. Yes.

7 Q. Do you remember some of the--some of the candidates to
8 whom you donated?

9 A. Tomblin, Manchin, Capito. In going through my records I
10 found one for Snuffer. I don't know who that was. Snyder.
11 One was some Snyder. Do I recall them all? No.

12 Q. Okay. With respect to the--once you were asked for your
13 contribution, whether it be yours or a contribution by your
14 spouse, what happened--well let me ask you first of all.
15 What forms did you make those contributions in?

16 A. Check.

17 Q. Once you made out the check or your wife signed a check,
18 what did you do with them next?

19 A. I would either give them to Mr. Clark to take to the
20 office if he was coming by that way of if we had meetings I
21 would give them to Karen Hughes.

22 Q. And to your knowledge do you have any reason to doubt
23 that any of the checks that you wrote did not--were not
24 given to the campaigns?

25 A. No.

Polce - Direct

1 Q. And with respect to the reimbursements, how were
2 reimbursements made to you or your wife for that matter?

3 A. Through payroll checks.

4 Q. Payroll checks or deposits?

5 A. Deposits.

6 Q. When you say payroll checks, did you receive your
7 payroll through direct deposit?

8 A. Yes, sir.

9 Q. Okay. Now let me talk about your compensation a little
10 bit. You were a salaried employee?

11 A. Yes.

12 Q. How many times were you paid per month in direct deposit
13 for salary?

14 A. Bimonthly.

15 Q. Okay. Did you have a so called tonnage bonus and other
16 bonuses that were performance related?

17 A. Yes, sir.

18 Q. And then during the time frame of the campaign
19 contribution program, did you also receive other deposits
20 through direct deposit to your bank account?

21 A. Yes.

22 Q. If we look at your bank statements would you be able to
23 tell at least in part some of the advances or reimbursements
24 that were made to your account for political contributions?

25 A. I would say because two times a month I was being paid

Polce - Direct

1 my salary. One time a month I was being paid a production
2 bonus and then if there was anything else in there that has
3 to be the reimbursement.

4 Q. And--and we'll look at those in a minute but the
5 political contribution reimbursements, in many instances
6 were they, for lack of a better term, more sizable than your
7 other bonus or payroll?

8 A. Some of them were, yes, sir.

9 Q. Okay. We'll get back to that in a minute. Let me--

10 MR. BERNARD: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 MR. BERNARD: Thank you.

14 BY MR. BERNARD:

15 Q. I'm going to sit in front of you what's been marked as
16 Exhibit 16 and 17 and I'll ask you to look at Exhibit 16
17 first and just tell me generally what Exhibit 16 represents?

18 A. Okay.

19 Q. And I mean generally. You don't need to get into
20 specifics. What is Exhibit 16?

21 A. It has checks on here from my ex-wife donating money to
22 McKinley for Congress.

23 Q. Okay. Without getting into the specifics yet, what
24 generally does that exhibit include? You said checks. Is
25 it fair to say that there are checks from bank accounts that

Polce - Direct

1 you and your spouse held?

2 A. Yes, sir.

3 Q. And is it also fair to say that the records, at least
4 those checks that are in there, reflect contributions you
5 made pursuant to the Mepco program?

6 A. Yes, sir.

7 MR. BERNARD: I'd ask that Exhibit 16 be admitted,
8 Your Honor.

9 THE COURT: Is there any objection?

10 MR. CARR: No, Your Honor.

11 THE COURT: Government 16 is admitted.

12 MR. BERNARD: Thank you, Your Honor.

13 (Government Exhibit 16 admitted.)

14 BY MR. BERNARD:

15 A. Could I say something?

16 Q. Yes.

17 A. Also there's other stuff on here--these are other checks
18 on here too that does not pertain to all that.

19 Q. Okay. And my question should have said, in part do they
20 reflect contributions?

21 A. Yes, sir.

22 Q. Thank you. Thank you for that clarification. Looking
23 at page one, for instance, if you could pull up the first
24 check. I believe it's been admitted. Did I not ask for it
25 to be admitted?

Polce - Direct

1 THE COURT: 16 is in.

2 MR. BERNARD: Yes. Thank you.

3 BY MR. BERNARD:

4 Q. The top check please. Can you tell me what that is?

5 A. Yes. It's a check my wife wrote to McKinley for
6 Congress for five hundred dollars.

7 Q. Okay. And that check that she wrote, was that at the
8 direction of the defendant that that check be made out to
9 McKinley for five hundred dollars?

10 A. That would have been a redirect through me that she
11 wrote that check.

12 Q. Who directed you to make the check?

13 A. Mr. Laurita, Jim.

14 Q. Okay. And was that check--who ultimately paid for that
15 donation?

16 A. Out of our checking account.

17 Q. Okay. And who ultimately put money in your checking
18 account to pay for that check?

19 A. Jim Junior.

20 Q. Looking at page two and there are a series of four
21 checks and I'll see if I can streamline this. Two to
22 Oliverio for Congress. Looks like you signed one and your
23 wife signed one and then two checks for McKinley for
24 Congress and they are all dated June 25th, 2010 and again
25 the McKinley for Congress appear to be a check signed by you

Polce - Direct

1 and Victoria. Were those checks made pursuant to the Mepco
2 political campaign contribution program?

3 A. Yes, sir.

4 Q. Were those ultimately paid for by the defendant?

5 A. Yes, sir.

6 Q. Let's go to page three. The check on the bottom is an
7 August 16th, 2010 check to Manchin for West Virginia for a
8 thousand dollars. Do you see that?

9 A. Yes, sir.

10 Q. Is that a check that you were directed to make by the
11 defendant?

12 A. Yes, sir.

13 Q. And is that a check that was ultimately paid for by the
14 defendant?

15 A. Yes, sir.

16 Q. And without going through each and every check on this
17 exhibit, would it be fair to say with respect to any check
18 in Exhibit 16 made out to a political campaign like
19 McKinley, like Manchin, like Tomblin, Snuffer and McKinley
20 as well, that all those checks contained in Exhibit 16
21 would've all been pursuant to the direction of the
22 defendant?

23 A. Yes, sir.

24 Q. And would have been paid for by the defendant?

25 A. Yes, sir.

Polce - Direct

1 Q. Could you look at Exhibit 17 please. And again in
2 general just tell me what is contained in Exhibit 17. Take
3 a few seconds to leaf through it please.

4 A. My bank statements. Mine and my ex-wife's bank
5 statements.

6 Q. Okay. And at least in part would those bank statements
7 contain deposits into your account for political
8 contributions, deposits by the defendant or Mepco?

9 A. Can you please repeat that?

10 Q. Yes. Does Exhibit 16, 17 I'm sorry, 17 contain bank
11 statements which would reflect in part deposits being made
12 pursuant to the political contribution reimbursement program
13 we've been talking about?

14 A. Yes, sir.

15 MR. BERNARD: I would ask that Exhibit 17 be
16 admitted, Your Honor.

17 THE COURT: Is there any objection?

18 MR. CARR: No, Your Honor.

19 THE COURT: Government Exhibit 17 is admitted.

20 (Government Exhibit 17 admitted.)

21 BY MR. BERNARD:

22 Q. Let's pull up page one please, a March 9th deposit.
23 Thank you. You see on March 9th and I believe at the top of
24 the statement in indicates this is 2010. Do you see a
25 fourteen thousand four hundred and fourteen dollar and three

Polce - Direct

1 cent deposit?

2 A. You mean eleven thousand four hundred and sixty-three?

3 Q. You're right. I don't know what I'm looking at right at
4 the moment. I think I flipped, looking on the screen up
5 there and not the exhibit. Yeah. Eleven thousand four
6 hundred and sixty-three dollars. Do you see that?

7 A. Yes, sir.

8 Q. Was that a deposit that Mepco made for political
9 contributions to your knowledge?

10 A. To my knowledge that would either be a contribution or
11 that would have been a bonus check for the production of
12 that and the start up of the Arco Mines. I'm not exactly
13 sure.

14 Q. Okay. But you're sure at least as you sit here today
15 that Mepco did make deposits into your account for political
16 contributions?

17 A. Yes, sir.

18 Q. But if I went through each page, would your answer be
19 the same? I'm not really sure. It could be or it could be
20 another bonus? Do you know what I'm saying?

21 A. But what I'm saying is I was reimbursed for all my money
22 that I put in through a political campaign; yes, sir.

23 Q. Right. But to go through this statement and have you
24 identify specific deposits, would you know which ones are
25 political campaign contribution deposits versus other

Polce - Direct

1 bonuses?

2 A. No, not unless I really broke it down and had to look
3 when my two paychecks would fall and all that stuff, sir.

4 Q. I don't think we need to do that. What you said is
5 everything that you made a donation for was reimbursed by
6 the defendant in this program?

7 A. Yes, sir.

8 Q. Okay. And it was reimbursed by deposits to your
9 account?

10 A. Yes, sir.

11 Q. Did you ever raise an objection during this program to
12 any particular candidates or say I really don't want to give
13 to that guy or person?

14 A. I would talk that I never really cared for Joe Manchin,
15 to contribute money to Joe Manchin. Did I personally say to
16 Jim Junior that I don't want to donate to him? No, sir, not
17 that I can recall.

18 Q. Well if you didn't want to do it, why did you do it?

19 A. That's what our program was for, to do it.

20 Q. But if you didn't want to do it, why did you feel the
21 need to do it?

22 A. As I said, that's our program to do. We did it because
23 I worked for Mr. Laurita. I trusted Jim Junior and I did
24 what the man asked me to do.

25 Q. Even though you personally didn't want to do it, didn't

Polce - Direct

1 want to give to this candidate, you did so because--

2 MR. CARR: Objection. Leading.

3 THE COURT: Sustained.

4 MR. BERNARD: I'll withdraw.

5 THE COURT: Okay.

6 BY MR. BERNARD:

7 Q. Did anybody at Mepco advise you or tell you that you
8 could use any of the monies given to you for political
9 contributions, either advance or reimbursements, so-called
10 reimbursements--did anybody at Mepco ever tell you you could
11 use that for anything other than political contributions?

12 A. No. The way it worked is I always wrote the checks
13 first before I was reimbursed the way I recall so it was my
14 money that was going out to be paid to them but it was being
15 put back into my account so it's money then when it comes
16 back.

17 Q. So it was dollar for dollar, you weren't out any money?

18 A. Not that I'm aware of because I didn't keep track of it
19 personally myself. Mrs. Hughes kept track of everything and
20 if she said I was square, I was square.

21 Q. Did you make any money, to your knowledge, on this
22 program--under this program?

23 A. Not that I recall.

24 MR. BERNARD: That's all the questions I have.

25 Thank you, sir.

Polce - Cross

1 THE WITNESS: Thank you.

2 THE COURT: All right. Cross-examination?

3 MR. CARR: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. DOUGLAS:

6 Q. Is it Polce, am I pronouncing that right?

7 A. That's fine. Polce, whatever. Yeah, anything works.

8 Q. If I heard you correctly you--your memory is that you
9 wrote the check first out of your funds and then a lump sum
10 payment would be made occasionally in approximately the
11 amount of what you reported you contributed. Is that right?

12 A. Yeah.

13 Q. It wasn't that initially you got a deposit into your
14 account and then you kind of kept writing checks out of that
15 bank account?

16 A. Not always. I don't know when I was square and I don't
17 know when I was behind because I didn't keep track of all
18 that.

19 Q. The majority of your income, perhaps the vast majority,
20 came from your employment at Mepco?

21 A. The years we're talking about from--

22 Q. 2010 to 2013?

23 A. Yes. Yes.

24 Q. And did you get some type of a three thousand dollar
25 consulting bonus too, Arco consulting fees?

Polce - Cross

1 A. Yeah. I mentioned that a while ago that Arco--I had a
2 three thousand dollar a month bonus for starting up the Arco
3 Mines, yes, sir.

4 Q. And that was a discretionary bonus awarded by Jim to
5 you?

6 A. Yes, sir.

7 Q. And all that money that was paid to you went into the
8 same account, in the same way all during this time period?
9 it just got direct deposited into your account?

10 A. It got direct deposited but it was different. Some of
11 it was Dana Mining. Some of it was Mepco.

12 Q. There was payments and the jury will see that on the
13 bank statements for Dana Mining?

14 A. Yes, sir.

15 Q. But the salary, tonnage bonus and what's been referred
16 to as bonus two were--are labeled Mepco, is that right?

17 A. Yeah. I don't know what you mean by bonus two. What do
18 you mean?

19 Q. They're talking--it's been referred to as a bonus for
20 the political contributions?

21 A. Okay. Yeah, they was all direct deposited into my
22 account.

23 Q. Under the name Mepco?

24 A. Yes.

25 Q. Other than you mentioned Joe Manchin, you didn't have

Polce - Cross

1 any disagreements with any of the candidates or the amounts
2 that were suggested to you, is that right?

3 A. Any disagreement or any what now with what?

4 Q. Any disagreement with any of the candidates or the
5 amounts to contribute that were suggested to you?

6 A. I can answer that a couple ways. I wouldn't have
7 contributed to them if I wasn't being reimbursed for them if
8 that's what you're asking me.

9 Q. But when you were asked to contribute to them, you
10 voiced concern, at least among some of the execs about
11 contributing to Manchin, is that correct?

12 A. Yes.

13 Q. You didn't do that any other time?

14 A. Not that I recall.

15 Q. And nobody told you that it was mandatory that you did
16 that. There were suggestions as far as which candidate and
17 how much to contribute?

18 A. Well we had a meeting that says we want to donate money
19 to these guys to help them, these ladies to help them, and
20 that's what we did.

21 Q. You agreed to it?

22 A. Yeah, when I was getting reimbursed I agreed to it.

23 Q. You never got any indication from Jim Laurita in any
24 way, shape or form that there was anything unlawful about
25 the program, did you?

Polce - Cross

1 A. No.

2 Q. And you didn't indicate to him any concern about the
3 program being unlawful?

4 A. I didn't know it was unlawful.

5 Q. That's what the jury is here to decide. You, though,
6 during the time period 2010 to 2013 did not communicate any
7 concern to Jim?

8 A. No.

9 MR. CARR: I apologize for the comment just a
10 moment ago, Your Honor. May I have a moment?

11 THE COURT: Yes.

12 (Pause)

13 MR. CARR: Nothing further, Your Honor.

14 THE COURT: Is there any redirect?

15 MR. BERNARD: There's not, Your Honor, and the
16 witness may be excused from the United States' stand point.

17 MR. CARR: Yes, Your Honor.

18 THE COURT: All right. Mr. Polce, you can step
19 down. You're excused as a witness and free to go.

20 THE WITNESS: Thank you.

21 THE COURT: I'd make my way out through the middle
22 of the courtroom rather than try to do the side.

23 (Witness excused)

24 THE COURT: Government's next witness?

25 MR. DOUGLAS: The United States calls again William

1 Raney. Hopefully I'm not oh for two.

2 THE COURT: Okay. Is someone checking to see if
3 he's there?

4 MR. DOUGLAS: Yes, Your Honor.

5 THE COURT: All right. Any exhibits? Thank you.

6 MR. BERNARD: You're welcome.

7 (Pause)

8 MR. DOUGLAS: Apparently I am oh for two, Your
9 Honor. Could we have a brief recess just to check and see
10 the status of where this witness is? He was on his way and
11 was expected to be here ten minutes ago. He is the last
12 witness.

13 THE COURT: All right. You might want to check to
14 see if he went to the state courthouse. That often happens
15 with people who aren't familiar with where our federal
16 courthouse is.

17 All right, Ladies and Gentlemen, we'll take a brief
18 recess. Let me say this to you about our schedule. We're
19 moving very quickly and obviously the Government would like
20 to get Mr. Raney in today and then you have?

21 MR. DOUGLAS: Then that is actually it, Your Honor.

22 THE COURT: You might rest after that?

23 MR. DOUGLAS: Yes.

24 THE COURT: Okay. And then the defendant would be
25 ready to begin tomorrow?

1 MR. CARR: Of course, Your Honor.

2 THE COURT: Okay. So we'll talk--I'll talk to the
3 lawyers further about the schedule but if Mr. Raney does
4 make an appearance, I think it's worth making sure that you
5 stay for that so that--you'll be out in time to go to your
6 job tonight. I can guarantee you that, but let's take a
7 brief recess. Let's see if we can find out if Mr. Raney
8 cruising around wonderful downtown Clarksburg looking for
9 the federal courthouse and I'll bring you back in as soon as
10 we know something. All right. Thank you. I think the case
11 is--keep your notebooks face down on your chairs. The case
12 is moving faster than the parties had expected and I think
13 that we will find that tomorrow may be the end of the
14 evidence. Okay. Thank you.

15 (Jury out 3:42 p.m.)

16 THE COURT: All right. If you can try to find out
17 where Mr. Raney is.

18 MR. DOUGLAS: Immediately, Your Honor.

19 THE COURT: Thank you.

20 MR. CARR: Your Honor, if I may ask--

21 THE COURT: Court stands in--oh, I'm sorry.

22 MR. CARR: Do you believe that we would be--that it
23 would be at least ten minutes before we come back in.

24 THE COURT: Yes.

25 MR. CARR: So we could step out. Thank you.

1 THE COURT: Oh, yes, definitely.

2 (Recess from 3:45 p.m., until 3:55 p.m.)

3 THE COURT: All right. Thank you. I understand
4 that Mr. Raney is on crutches--

5 MR. DOUGLAS: Yes, Your Honor.

6 THE COURT: --and needs to come in and take the
7 stand before--he can take the oath from here. It's not a
8 problem.

9 MR. DOUGLAS: Yes, Your Honor. United States calls
10 William Raney.

11 THE COURT: All right. And when the jury comes in
12 I'll explain it to them.

13 MR. DOUGLAS: Thank you, Your Honor.

14 THE COURT: All right. Good afternoon, Mr. Raney.
15 Would you please come forward and I think--

16 MR. Raney: Oh, through the middle here.

17 THE COURT: Yeah, you're going to have to thread
18 the needle on that and is it comfortable for you to stand
19 there in front of the Clerk to take the oath? Can you raise
20 your right hand or would you rather be in the chair?

21 THE WITNESS: I'm fine.

22 THE COURT: Okay. Thank you. Raise your right
23 hand please.

24 WILLIAM RANEY, GOVERNMENT'S WITNESS, SWORN

25 THE CLERK: Thank you. Have a seat in the witness

1 stand.

2 THE COURT: All right. Now can I ask Court
3 Security to assist Mr. Raney to get up those steps?

4 Okay. Now you can adjust that microphone so that it
5 will work just fine for you. With that, we can bring the
6 jury in.

7 (Jury in 3:58 p.m.)

8 THE COURT: All right, Ladies and Gentlemen,
9 welcome back and when you come in just be seated. All
10 right. Ladies and Gentlemen, before you came in, Mr. Raney,
11 who is on crutches, came into the courtroom and he actually
12 took the oath which I think I should ask him to take again
13 in front of you but we escorted him to the chair so that
14 with all the confusion here in the courtroom it was a trap
15 for the unwary and I was fearful.

16 So, Mr. Raney, I know you've already been sworn once but
17 I'm going to ask the Clerk to do it again in front of the
18 jury. Thank you.

19 MR. Raney: Yes, ma'am.

20 WILLIAM Raney, GOVERNMENT'S WITNESS, SWORN

21 THE CLERK: Thank you. You may be seated. The
22 witness is William Raney, R-a-n-e-y.

23 THE COURT: All right. Okay. You may proceed,
24 Mr. Douglas.

25 MR. DOUGLAS: Thank you, Your Honor.

Raney - Direct

1 DIRECT EXAMINATION

2 BY MR. DOUGLAS:

3 Q. Sir, could you please introduce yourself to the jury?

4 A. Yes, sir, I'm Bill Raney.

5 Q. And how are you employed, sir?

6 A. I am employed by the West Virginia Coal Association.

7 Q. What is the West Virginia Coal Association?

8 Q. We represent the coal industry here in West Virginia as
9 well as the companies that support the coal industry, the
10 mining of coal, the processing of coal, transportation and
11 use of coal here.

12 Q. Is the Association also involved in politics, including
13 having a Political Action Committee?

14 A. We do have a Political Action Committee, yes, sir.

15 Q. And you said you're the President of the Coal
16 Association?

17 A. I am, sir.

18 Q. How long have you been the president?

19 A. Oh, Lord, I think since 1982, would that be right. 92.
20 Let's do 92, how's that. I think that's what it is.

21 Q. Okay. Do you know Jim Laurita, Jr. the defendant
22 sitting here at this table next to me on the right?

23 A. I do, yes, sir.

24 Q. How long have you known the defendant?

25 A. Well I've known the defendant probably most of his life

Raney - Direct

1 and I've known his father. I don't think I knew him before
2 Jim was born but I've known both of them.

3 Q. How do you know the Laurita family?

4 A. Through the coal industry. It's--you know, I worked up
5 in the Morgantown and Fairmont area as an inspector for the
6 Department of Natural Resources back in the early 70s and
7 Mr. Laurita was mining coal at that point and I inspected
8 his jobs. I got to know him through--through that
9 relationship and then of course as Jim came along and I was
10 with--first with the Mining Reclamation Association and now
11 with the Coal Association and that's just kind of a natural
12 progression.

13 Q. Thank you. At some point was the defendant a member of
14 the West Virginia Coal Association Board?

15 A. He was, sir, yes.

16 Q. What time frame was he on the Board?

17 A. Well I'm going to say it was between 2000--probably from
18 2005, in the early 2000's up through, you know,
19 last--probably four years ago.

20 Q. Okay. And was there a certain time frame where he was
21 Chairman of the West Virginia Coal Association Board?

22 A. Yes, sir.

23 Q. What time frame was that?

24 A. I want to say that was 2012 to 14.

25 Q. Generally have you known the defendant to be involved in

Raney - Direct

1 politics in any time that you've known him?

2 A. Only--I mean only in the sense of being an interested
3 citizen and you know no more so than anyone else that's a
4 member of the Association.

5 Q. Okay. Has that involvement by the defendant in politics
6 included permitting his Mepco offices to be used for any
7 political events as far as you know?

8 A. Well the one event that I recall was when he was--and,
9 again you're dealing with a memory here, it's liable to be a
10 little sketchy so that--but he was the Chairman of the
11 Government Affairs Committee and I think at the time there
12 was a race going on for the First Congressional District and
13 as I recall, I think it was open at that point, but I think
14 Mike Oliverio and I think Dave McKinley was running, Sarah
15 Minear was running, Mac Warner, and because it was in
16 Morgantown, because it was convenient to all the candidates
17 he invited whoever the members of the Association wanted to
18 participate in an interview process--it wasn't his idea. It
19 was a collective idea of the Association to bring in the
20 candidates and talk with them as it regards their view of
21 the coal industry.

22 Q. All right. And so would that have been in 2010 if
23 you're talking about Oliverio and McKinley?

24 A. Yes, sir, it sounds like you know what year it was.

25 Q. I'm asking you.

Raney - Direct

1 A. Well as best I recall, that was when it was.

2 Q. All right. Have you known the defendant to attend any
3 campaign fundraisers, yes or no?

4 A. Yes, I know he attended some. I can't tell you when or
5 where but most of the other members have as well.

6 Q. Have you known the defendant to host or sponsor any
7 campaign fundraisers?

8 A. Yes, sir.

9 Q. Okay.

10 A. And, again, you'll ask me if you want the dates and I'm
11 not sure I can give them to you.

12 Q. Have you ever witnessed any campaign representative
13 asking the defendant to follow up with any of his employees
14 about donations?

15 MR. CARR: Objection, Your Honor. Respectfully
16 with the relevance of this witness' knowledge of
17 Mr. Laurita's political activity.

18 THE COURT: There's no foundation for the question.
19 I'll sustain it.

20 MR. DOUGLAS: Okay.

21 BY MR. DOUGLAS:

22 Q. Have you been copied on any e-mails from campaigns to
23 the defendant regarding fundraisers?

24 A. That's the ones, as I recall, ones I got copies of, yes.

25 Q. And in those e-mails that you're saying you recall, did

Raney - Direct

1 any of those include the campaign asking the defendant to
2 follow up with any employees of his about donations?

3 A. You know, I don't recall exactly the wording of the
4 thing. I think it was a call from--it was McKinley's
5 daughter I think that was running the campaign for him and
6 saying, you know, we'd like to follow up with everybody that
7 had talked about perhaps giving a contribution.

8 Q. Okay. Does the Coal Association Board hold meetings?

9 A. We do, yes, sir.

10 Q. And do board members ever discuss politics at those
11 meetings?

12 A. Usually we adjourn when we do that but there's always an
13 interest of course.

14 Q. Okay. Have you ever heard the defendant discuss
15 politics at or after adjournment of those meetings?

16 A. Only in the sense of participating in what I'd call a
17 general conversation among the folks that are in the room.

18 Q. Okay. Have you ever discussed campaign limitations with
19 the defendant?

20 A. Haven't discussed them but I mean we've exchanged
21 e-mails, as I recall there was some e-mails.

22 MR. DOUGLAS: All right. May I approach the
23 witness, Your Honor, please?

24 THE COURT: You may.

25 BY MR. DOUGLAS:

Raney - Direct

1 Q. I'm handing you a number of exhibits here.

2 A. Okay.

3 Q. If you could just briefly take a look at those and we'll
4 start with the first one on top which is marked as
5 Government Exhibit 1-15. Generally do you recognize this
6 e-mail or do you recognize this exhibit?

7 A. I do; yes, sir.

8 Q. What is it in general?

9 A. It looks like an e-mail chain that talked about an event
10 that was held during our annual meeting which we always have
11 an annual meeting in August.

12 Q. And is it addressing campaign limitations, donation
13 limitations between you and including the defendant?

14 A. It's including several people. It came from Sandi
15 Davison.

16 Q. Okay. Do you see that, for example, at the top you're
17 sending an e-mail to the defendant, do you see that?

18 A. Oh, okay. Yes, sir.

19 Q. And do you see how you're talking about number--dollar
20 amounts for limitations?

21 A. Yes, sir.

22 MR. DOUGLAS: We move to admit Government Exhibit
23 1-15.

24 THE COURT: Is there any objection?

25 MR. CARR: No, Your Honor.

Raney - Direct

1 THE COURT: Government Exhibit 1-15 is admitted.

2 (Government Exhibit 1-15 admitted.)

3 BY MR. DOUGLAS:

4 Q. If we could please bring it up. It's going to be on
5 your computer screen up there and we are going to enlarge
6 the bottom half, just the bottom e-mail first. Further
7 down. The entire bar. Completely down. Yes. Do you see
8 this e-mail here at the bottom from Sandi Davison?

9 A. Yes. You're asking me I presume, right?

10 Q. Yes.

11 A. Yes, sir, I do see it.

12 Q. And who is Sandi Davison?

13 A. Sandi was--she was the assistant we had at the
14 Association. She was there for like forty-two years.

15 Q. And do you see, if you focus on the third to last
16 sentence, the sentence starting with since this is a federal
17 election?

18 A. Yes, sir.

19 Q. Could you read that sentence for us please?

20 A. Yes, sir. It says, since this is a federal election
21 individuals can give a maximum of forty-eight hundred
22 dollars which is twenty-four hundred dollars for each the
23 primary and the general elections. Political Action
24 Committees can give a maximum of ten thousand dollars, being
25 five thousand each for the primary and the general. An

Raney - Direct

1 invitation is attached.

2 Q. So is this an example of Sandi Davison sending out
3 information about federal campaign limitations?

4 A. No. It's--it's--it's more--it's more an invitation to
5 an event that is being held. As I said as part of our--it
6 wasn't part of our annual meeting but it was during our
7 annual meeting and Sandi had been asked probably, this had
8 been provided to her I would suspect and she sent it out
9 to--I don't know who all it went to. It doesn't indicate
10 that.

11 Q. Okay. Well let's then focus on another part. We're
12 going to look at the top part of this e-mail please. Do you
13 see the e-mail from the defendant to you on July 29th, 2010
14 at 10:10 a.m?

15 A. Yes, sir.

16 Q. Could you read that please?

17 A. So I should conclude that we can only give a maximum of
18 twenty-four hundred dollars for the primary next Thursday
19 and it's premature to give forty-eight hundred dollars.

20 Q. Okay. Did you then answer his question in the next
21 e-mail or attempt to?

22 A. I attempted to.

23 Q. All right. What does it say?

24 A. It says you can give both for a total of forty-eight
25 hundred dollars. It is reported in the appropriate cycle

Raney - Direct

1 for the individual elections.

2 Q. What did you mean by it was reported in the appropriate
3 cycle for the individual elections?

4 A. No it is reported. If you do in fact give forty-eight
5 hundred dollars then you would report it in the--whether
6 it's a primary or general election cycle.

7 Q. Where did you learn this information?

8 MR. CARR: Objection. Relevance.

9 THE COURT: Overruled.

10 BY MR. DOUGLAS:

11 A. The--I think it's just a matter of just through the
12 course of experience I think and any time I get a question
13 like that if I don't really know the answer then I will ask
14 either lawyers or practitioners that know something more
15 about it than I do.

16 Q. Okay. We'll get to that in a second actually. Did the
17 defendant ever tell you that he was using company money to
18 fund campaign contributions made in the names of his
19 employees?

20 A. No, sir.

21 Q. Did the defendant ever ask you whether it was legal,
22 lawful, right, permitted to do that?

23 A. No, sir. I've never been asked that question.

24 Q. All right. Now you started to talk about how you would
25 find out information. I think you mentioned lawyers. Does

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1 the Coal Association have attorneys available?

2 A. We do. I mean they're available to everyone but we
3 happen to use--attorneys at Jackson Kelly are usually our
4 counsel for Association business.

5 Q. Okay. So is there a counsel to the Board, a specific
6 counsel to the Board?

7 A. Louis Southworth typically has served over the years as
8 a counsel to the Board of Directors.

9 Q. Do you have experience with Louis Southworth as an
10 attorney?

11 A. I do, yes, sir.

12 Q. What quality of an attorney is he?

13 A. I think he's pretty good. I keep using him.

14 Q. Have you asked him questions about campaign laws before?

15 A. Yes, sir.

16 Q. Did he seem pretty knowledgeable to you on campaign
17 finance laws?

18 A. Yes, sir. Again, I think, you know, if he's not
19 familiar then, you know, we gather up the people that we
20 feel like that are familiar and try to get the correct
21 answer.

22 Q. Okay. Has the defendant ever requested that you ask
23 Louis Southworth a legal question about campaign donations?

24 A. Well as I recall and looking through I think these
25 e-mails, I'm not--I'm not exactly sure the genesis of the

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1 question, where it came from.

2 Q. Then let's take a look at Government Exhibit 1-18
3 please. What generally is Government's Exhibit 1-18? Is
4 this an e-mail from the defendant to you?

5 A. Yes.

6 Q. Is he asking you to ask a question of Louis Southworth?

7 A. Yes, it's regarding--

8 Q. Don't read it. I'm just asking you.

9 A. Yes, it is.

10 Q. And is that question pertaining to campaign laws?

11 A. Yes, sir.

12 MR. DOUGLAS: Okay. We move to admit Government
13 Exhibit 1-18.

14 THE COURT: Is there any objection?

15 MR. CARR: No, Your Honor.

16 THE COURT: Government Exhibit 1-18 is admitted.

17 (Government Exhibit 1-18 admitted.)

18 BY MR. DOUGLAS:

19 Q. Please bring up page one of 1-18 and please enlarge the
20 top e-mail. Is this an e-mail from the defendant to you on
21 August 10, 2010 at 5:44 a.m.?

22 A. Yes, sir.

23 Q. Okay. Could you please read it?

24 A. It says, Bill, I wanted to clear something up, and
25 thought you might possibly have answer for me. I've seen on

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1 a few invitations of late that donations to political
2 campaigns from LLC's are permissible. I do not have Louis'
3 e-mail address but felt maybe you could ask him for me.
4 Thanks, Jim Laurita.

5 Q. Did that indicate to you that the defendant was reading
6 invitations?

7 MR. CARR: Objection, Your Honor. Relevance.

8 THE COURT: Sustained.

9 BY MR. DOUGLAS:

10 Q. What did you understand the defendant was wanting you to
11 do in this e-mail--because of this e-mail?

12 A. Best I can tell is he wanted to know if campaign
13 contributions from LLC's are permissible.

14 Q. And how was he suggesting in the e-mail that you find
15 out for him?

16 A. He suggested I ask Louis.

17 Q. Is that Louis Southworth?

18 A. Yes, sir.

19 Q. Is that the counsel to the Board?

20 A. Yes sir.

21 Q. Is that an attorney at Jackson Kelly?

22 A. Yes, sir.

23 Q. Did the defendant ever explain to you why he was asking
24 you to ask this question?

25 A. No, sir.

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1 Q. Did you have any knowledge as to whether Mepco was an
2 LLC?

3 A. No, sir, I had no idea.

4 Q. Okay. Let's take a look please in the paper stack there
5 at Government's Exhibit 1-19. Does Government's Exhibit
6 1-19 include responses from you and then also response in
7 there from Louis Southworth?

8 A. Yes, sir, appears to be.

9 Q. As part of a chain in the e-mail that we were just
10 reviewing?

11 A. Yes, sir.

12 MR. DOUGLAS: We moved to admit 1-19.

13 THE COURT: Is there any objection?

14 MR. CARR: No, Your Honor.

15 THE COURT: The Court admits Exhibit 1-19.

16 (Government Exhibit 1-19 admitted.)

17 BY MR. DOUGLAS:

18 Q. If we could just enlarge the top half of the first page
19 of Exhibit 1-19. Could you please read your response to the
20 defendant?

21 A. That would be the second--

22 Q. Starting with Louis indicated--

23 A. Louis indicated if the LLC is a partnership it is
24 permissible, but if it is a corporation, it is not.

25 Q. And then could you please read what Louis Southworth

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1 added to that response?

2 A. Yeah. If LLC is treated as a partnership for tax
3 purposes, a contribution is allocated among the partners
4 according to their ownership.

5 Q. And is the defendant copied on Louis Southworth's e-mail
6 as well there at the top?

7 A. Yes, sir. It appears so.

8 Q. Okay. Did the defendant ever discuss with you
9 Mr. Southworth's answer?

10 A. No, I recall no discussion about that.

11 Q. Did you have any knowledge as to whether Mepco was
12 treated as a partnership or a corporation?

13 A. No, sir.

14 Q. Then lastly I'll ask you to look at Exhibit 1-21. Is
15 this a further e-mail chain from the same e-mail?

16 A. It appears to be, yes sir.

17 MR. DOUGLAS: We move to admit 1-21.

18 THE COURT: Any objection?

19 MR. CARR: No, Your Honor.

20 THE COURT: Government Exhibit 121--1-21, excuse
21 me, is admitted.

22 MR. DOUGLAS: Thank you.

23 (Government Exhibit 1-21 admitted.)

24 BY MR. DOUGLAS:

25 Q. If we could bring up page one of 1-21 and just enlarge

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1 the top two e-mails. If you could start with the bottom
2 e-mail, is that an e-mail from Louis Southworth to both you
3 and the defendant?

4 A. Where it reads also the partners?

5 Q. Yes, sir?

6 A. Yes, it appears to be.

7 Q. And could you read what it says please?

8 A. Also the partners must be individuals.

9 Q. Okay. And then do you see at the top where the
10 defendant is then chiming in at the top of this chain,
11 thanks, Louis?

12 A. Yes, sir.

13 Q. Okay. Thank you. Has the defendant ever requested that
14 you ask Louis Southworth whether it was legal to use company
15 money to fund campaign contributions made in the names of
16 his employees?

17 A. No, sir.

18 Q. Are you aware of whether the defendant ever asked Louis
19 Southworth this question on his own?

20 A. No. No, sir.

21 Q. Has the defendant ever asked you to ask anyone this
22 question?

23 A. No, sir.

24 Q. Are you aware of the defendant ever asking anyone to ask
25 anyone else this question?

Raney - Cross

1 A. No, sir.

2 MR. DOUGLAS: Thank you. Nothing further, Your
3 Honor.

4 THE COURT: All right. Cross-examination?

5 MR. CARR: May I have a moment, Your Honor?

6 (Pause)

7 MR. CARR: Briefly, Your Honor.

8 THE COURT: Okay.

9 CROSS EXAMINATION

10 BY MR. CARR:

11 Q. Mr. Raney, would you agree with me that at times when
12 Jim Laurita had a--had a question--had any question about
13 legality of something, he would ask you or e-mail you and
14 Louis and ask the question?

15 A. Yes. I mean I presume based on these e-mail chains. I
16 don't know that it's every time, sir, but, you know,
17 certainly there were these times.

18 Q. During the 2010 time period, did the industry and the
19 Coal Association perceive that there was a war on coal?

20 A. Yes sir.

21 Q. And did the political activism, for lack of a better
22 term, increase across the industry?

23 A. It did. The interest rose certainly. I mean it--it
24 was--yeah we had a tough eight years from 2008 to 2016.

25 Q. How did that compare to the efforts as it relates to

Raney - Cross

1 elected officials and individuals running for political
2 campaigns as to the previous years?

3 A. You know, there was perhaps an increased interest but I
4 don't know that it was appreciably increased. There's
5 always been an interest among the industry, among the people
6 that are in the industry, as it regards those that are
7 leading the state either in the legislature or in Congress.

8 Q. Certainly here in West Virginia?

9 A. Clearly, yes, sir.

10 Q. What was--when you said you had a--it was a hard eight
11 years, what did you mean by that?

12 A. It was very difficult. I don't know whether you're
13 supposed to get political from the witness stand or not but
14 we had a pretty tough time with the fellow that was running
15 the country didn't care much about the coal industry and
16 that philosophy seemed to be reflected in the agencies that
17 were controlling whether you get permits and whether you
18 continue operations, whether you keep power plants open
19 and-and so forth so markets were dissipating and it was
20 becoming more difficult to mine coal and continue to mine
21 coal so we had a--we had a difficult eight years.

22 Q. Did it threaten the industry?

23 A. It did. Yes, sir, it sure did. It's--in 2016, for
24 instance, we had the lowest production in this state that we
25 had had in forty years and that was--you know that's

Raney - Cross

1 concerning when you have that.

2 MR. CARR: Your Honor, may I have just one more
3 moment please?

4 THE COURT: Yes.

5 (Pause)

6 MR. CARR: Nothing further.

7 THE COURT: All right. Thank you. Any redirect?

8 MR. DOUGLAS: No, Your Honor.

9 THE COURT: All right. Can we provide Mr. Raney
10 some assistance to get down from the steps there? Thank
11 you. You're excused as a witness, Mr. Raney and Mr. Douglas
12 will retrieve that exhibit. Please leave it up there.
13 Thank you.

14 (Witness excused)

15 THE COURT: All right. Government may call its
16 next witness.

17 MR. DOUGLAS: There are no further witnesses. The
18 Government rests.

19 THE COURT: All right. Ladies and Gentlemen, the
20 Government has rested. Now that doesn't mean they're going
21 to take a nap. It means that they have finished the
22 evidence in their case--in its case in chief. All right.
23 So it also means that you're going to get to go home a
24 little early this afternoon. The--I did not have a chance
25 to discuss with counsel in detail what the schedule tomorrow

1 may hold but, counsel, my expectation would be that we might
2 finish all the evidence tomorrow. Does the Government
3 agree?

4 MR. DOUGLAS: Yes, Your Honor.

5 THE COURT: Does the defendant agree?

6 MR. CARR: Yes, Your Honor.

7 THE COURT: Okay. So if that is likely for
8 tomorrow and given what the weather was like this morning,
9 counsel, would that change if I brought the jury in at nine
10 o'clock instead of eight-thirty?

11 MR. DOUGLAS: No, Your Honor.

12 MR. CARR: Not at all, Your Honor.

13 THE COURT: Okay. Thank you. Ladies and
14 Gentlemen, why don't we adjourn until nine o'clock tomorrow
15 morning and at which time we'll resume the evidence in the
16 case. The defendant will have an opportunity to put on his
17 evidence in his case in chief but please recall he's under
18 no obligation to put on any evidence whatsoever. Under the
19 law, our Constitution, he's presumed to be innocent of all
20 the charges and so he's therefore under no obligation to put
21 on any evidence at all. That was part of my preliminary
22 instructions to you, but assuming that he will put on some
23 evidence then we will begin at nine o'clock and you should
24 be prepared to come into the courtroom to hear that.

25 Now tonight, as you leave, recall my instructions from

1 yesterday which I'm about to give you again, that it that
2 you are not to discuss the case among yourselves or with any
3 third party with whom you may have contact between now and
4 nine o'clock tomorrow morning. That includes your family.
5 How many of you had to tell your family--you don't have to
6 raise your hands, put just the family I cannot discuss what
7 I'm doing other than to tell you I'm a juror in a case in
8 Clarksburg. So if that were to arise again tonight, you must
9 give that same response.

10 In addition you are not to review any media coverage of
11 the case, whether on the TV, radio or in the newspaper and
12 you are not to undertake any independent examination or
13 investigation of any issues that have arisen in the case,
14 whether by means of your phone or on a tablet or by going to
15 the library.

16 And in addition if a third person approaches you and
17 attempts to initiate a discussion about the case, you need
18 to tell them you're not allowed to talk to them about the
19 case. If they persist you need to walk away and bring that
20 to my attention through Court Security or Debbie at your
21 earliest opportunity.

22 I cannot tell you at this time whether you will get the
23 case tomorrow or not. I think it depends on how much
24 evidence there is and we don't know that at this point. So
25 I can only tell you that I'm sure the evidence will finish

1 tomorrow. Okay. So that's as much as I can tell you right
2 now.

3 With that I wish you a safe journey home. I hope--I
4 haven't been out so I don't know if it warmed up at all but
5 we'll see you at nine o'clock tomorrow morning. Please
6 leave your notebooks face down on your chairs. Thank you
7 for your attention.

8 (Jury out 4:25 p.m.)

9 THE COURT: We are attempting to get a draft charge
10 out to you. I don't think we're going to have a hard copy
11 to hand to you but we should be able to PDF or Word--a
12 document by Word or PDF to you this evening, but with the
13 caveat that it's an early draft and the--there are some
14 issues that we'll need to take up. My suspicion will be
15 that when you conclude your evidence maybe we should let the
16 jury go, have the charge conference, let you all prepare for
17 closing argument and then begin fresh on Thursday morning.
18 Does that make sense?

19 MR. DOUGLAS: Yes, Your Honor.

20 MR. CARR: Yes, Your Honor, especially given the
21 amount of evidence and documents that came in today. Thank
22 you.

23 THE COURT: All right. I don't have a problem with
24 that and I really don't think the jury will have a problem
25 with that. Do you have a rough estimate of how long--you

1 said you thought a half a day but I don't want to hold you
2 to that obviously.

3 MR. CARR: Your Honor, if I can respectfully ask,
4 is the Court concerned that it would be more or less than
5 that?

6 THE COURT: No. I do think--I hate to send the
7 jury home if we're only going to be here for a half an hour.
8 You know what I'm saying.

9 MR. CARR: I apologize, Your Honor. I understand.

10 THE COURT: Yes. Have an obligation not to impose
11 on them.

12 MR. CARR: Absolutely, Your Honor. I fully
13 understand now the Court's question. It will be at least a
14 half a day and I could see it going into the afternoon.

15 THE COURT: Okay. Fine. Thank you. That--that
16 makes we worry less about the fact that the jury would no
17 more show up than they'd have to leave. I have had that
18 happen before and I always said I'd never let it happen
19 again.

20 So with the understanding that--do you all have access
21 to a printer to print out something tonight if we send it to
22 you?

23 MR. DOUGLAS: Yes, Your Honor.

24 MR. CARR: Yes, Your Honor.

25 THE COURT: Okay. Good. Then I think we'll have

1 something out to you and then we will conduct--I will
2 conduct a charge conference at the conclusion of the
3 evidence in the case entirely tomorrow. All right. You
4 should be prepared to stay for that and then finally, if you
5 have any additions that you want--added instructions that
6 you want in the charge and you've got a version you can
7 e-mail tonight, we'd love to have it. Okay. I think--and
8 with regard to the 404(b) that will not be the heading on
9 it, but with regard to that evidence I am assuming you want
10 that in before we get to the substantive charge on the
11 counts. In other words, as part of the boilerplate as
12 opposed to afterwards at the very end.

13 MR. DOUGLAS: Yes, Your Honor, and actually counsel
14 have discussed this issue and defense counsel requested that
15 it be generic as opposed to the more tailored--

16 THE COURT: Right.

17 MR. DOUGLAS: And we have no objection to it being
18 generic.

19 THE COURT: All right. So it would then be in what
20 I tend to call the boilerplate but which can change with
21 every case, those generic instructions before we get to the
22 substantive counts.

23 MR. DOUGLAS: Yes, Your Honor.

24 MR. CARR: Yes, Your Honor.

25 THE COURT: Okay. Now there is a question--you can

1 be seated for this. There is a question. I believe--was it
2 the Government who submitted the consciousness of guilt
3 instruction? I'm not certain--on consciousness of guilt,
4 I'm not certain that I think that it's warranted based on
5 the evidence I have. I'm sure the Government will make an
6 argument why it is. We're going to include it but that
7 doesn't mean I've decided. Okay. It's just for purposes of
8 discussion on that question. I don't know what else may be
9 an instruction that--a particular instruction in the charge
10 that you want to argue but if you want to let us know,
11 Judge, this instruction is problematic from the defense
12 perspective. Judge this is problematic from the
13 plaintiff's--from the Government's perspective,
14 that's--that's fine. It will help us prepare.

15 The other thing is I don't have any theory of the case
16 instruction from the defendant. Obviously you're entitled
17 to that in the charge. Are you planning on submitting
18 something after the close of the evidence?

19 MR. CARR: Yes, Your Honor.

20 THE COURT: Okay. The Government is--you--you've
21 got the--the Indictment in essence in the charge. If you're
22 going to submit anything else on theory of the case, you
23 need to let me know.

24 I would not typically in this case since one of the
25 counts has been dismissed, submit the Indictment per se to

1 the jury, although you have a right to have it. As the
2 Government did submit in its proposed instructions the
3 entire Indictment is in there as it stands right now so if
4 the defendant wants the whole thing to go back, I can send
5 that back. I will certainly do it, but we're going to have
6 to explain to them about Count Five at that point. So do
7 you all want to think about that and let me know. I will be
8 reading every single count in its entirety to the jury in
9 the charge.

10 MR. DOUGLAS: If we could think about that.

11 THE COURT: Sure and we'll--I'll try to estimate
12 how long that charge is going to take. It's close to fifty
13 so I know we're well at an hour. We could be beyond that.
14 It could be a little bit more than that and given that,
15 when--just for preparing for your argument, what I would
16 suggest we do is after I charge the jury, which is before
17 you argue, we give them a break. Then we come back in and
18 you argue the case in its entirety and the next time they go
19 out is to begin deliberations. Is that acceptable to the
20 Government?

21 MR. DOUGLAS: Yes, Your Honor.

22 THE COURT: What about the defendant?

23 MR. CARR: Yes, Your Honor.

24 THE COURT: Okay. Possible thoughts about the
25 timing or the length of closing argument?

1 MR. DOUGLAS: No longer than thirty minutes.

2 THE COURT: Okay.

3 MR. CARR: I apologize, Your Honor. I was a little
4 bit surprised by the brevity of the Government's response.
5 I had expected, given the documents and the testimony, as
6 well as quite frankly the somewhat complexity of the counts,
7 I would request at least an hour.

8 THE COURT: I was prepared to give up to an hour.
9 Think about is some more but certainly given a case like
10 this I would have allowed and will allow an hour per side,
11 whether you use it or not.

12 MR. DOUGLAS: And we're going to reserve some time
13 for rebuttal as well.

14 THE COURT: Well that was included in my question
15 initially so--you would just moving right on through with
16 rebuttal. So you were thinking thirty minutes for your
17 opening?

18 MR. DOUGLAS: Yes.

19 THE COURT: Now I don't allow the same amount of
20 time for the Government's rebuttal. I think Mr. Bernard can
21 fill you in on that but so you know a fair effort. If you
22 have a thirty minute initial closing statement then probably
23 no more than fifteen for a rebuttal.

24 MR. DOUGLAS: Yes, Your Honor.

25 THE COURT: Okay. But each side will have an hour

1 and as long as you allocate that fairly on the Government's
2 side, whether you use it or not is up to you.

3 MR. DOUGLAS: Yes, Your Honor.

4 THE COURT: Okay.

5 MR. CARR: Yes, Your Honor, and I would note at
6 least at this point the defendant--the defense does not
7 believe that there has been any evidence whatsoever of
8 consciousness of guilt. I had a discussion with the
9 Government when the jury instructions were first submitted.
10 I understood that they had thought about introducing a
11 certain piece of testimony. That has not come in. I do not
12 think that there's any consciousness of guilt and I will
13 discuss the matter with the Government but if--I also do not
14 think that that--not to raise issues that haven't been
15 raised yet, Your Honor, but I also don't think that
16 eliciting that testimony would be appropriate so--but we'll
17 discuss it.

18 THE COURT: Well I don't know if there's going to
19 be any rebuttal case. I guess that depends on what you hear
20 in the defendant's case in chief. I'm just telling you
21 right now I don't see it. It's going to be in the charge
22 but that doesn't mean I have decided to include it. It's
23 for purposes of discussion.

24 All right. That's what I needed to say. Is there
25 anything else from the Government tonight?

1 MR. DOUGLAS: No, Your Honor.

2 THE COURT: Anything else from the defendant?

3 MR. CARR: No, Your Honor.

4 THE COURT: Thank you. Court stands adjourned
5 until nine a.m. tomorrow morning.

6 (Trial adjourned at 4:35 p.m.)

7 *****

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CERTIFICATE

10 I, Linda L. Bachman, Official Reporter of the United
11 States District Court for the Northern District of West
12 Virginia, do hereby certify that the foregoing is a true and
13 correct transcript of the proceedings had in the above
14 styled action on January 30, 2018, as reported by me by
15 stenomask.

16 I certify that the transcript fees and format comply
17 with those prescribed by the Court and the Judicial
18 Conference of the United States.

19 Given under my hand this 15th day of February, 2018.

20

21

/s/ Linda L. Bachman

22

Linda L. Bachman, CCR, CVR-M
Official Reporter, United States
District Court for the Northern
District of West Virginia

23

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25